



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS

Dennis Kennedy, Mayor
Steve Tate, Mayor Pro Tempore
Larry Carr, Council Member
Mark Grzan, Council Member
Greg Sellers, Council Member

REDEVELOPMENT AGENCY

Dennis Kennedy, Chair
Steve Tate, Vice-Chair
Larry Carr, Agency Member
Mark Grzan, Agency Member
Greg Sellers, Agency Member

WEDNESDAY, JULY 20, 2005

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Board & Commission Interviews.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

6:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

CITY COUNCIL REPORT

Council Member Tate

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

OTHER BUSINESS:

Time Estimate

Page

- | | | |
|--|-------------|---|
| 1. | 120 Minutes | <u>INTERVIEWS TO FILL VACANCIES ON THE ARCHITECTURAL REVIEW BOARD (ARB); LIBRARY, CULTURE & ARTS COMMISSION; MOBILE HOME RENT COMMISSION; AND PLANNING COMMISSION</u>5 |
| <u>Recommended Action(s):</u> | | |
| 1. <u>Council Discussion</u> About the Characteristics/Traits the Council is Seeking in Candidates to Serve on the ARB, Library Culture & Arts Commission, Mobile Home Rent Commission and Planning Commission; | | |
| 2. <u>Conduct</u> Interviews; | | |
| 3. <u>Council Discussion</u> regarding Candidates; | | |
| 4. <u>Council Identification</u> of Recommended Candidates Up to the Number of Vacancies Available on Board/Commission Plus 1, As Deemed Appropriate; and | | |
| 5. <u>Mayor to Return with Recommended</u> Appointments for Council Discussion and Ratification of Appointments. | | |

City Council Action

CONSENT CALENDAR:

ITEMS 2-7

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

2. [FOX HOLLOW-MURPHY SPRINGS ASSESSMENT DISTRICT – ABANDONMENT OF PROCEEDINGS TO INCREASE ASSESSMENTS PURSUANT TO PROPOSITION 218](#)7
Recommended Action(s): Adopt 11 Resolutions to Levy Assessments at the Previously Authorized Fiscal Year 2004-2005 Rate.
3. [INDOOR RECREATION CENTER PROJECT – JUNE CONSTRUCTION PROGRESS REPORT](#)19
Recommended Action(s): Information Only.
4. [ACCEPTANCE OF THE INTERIM OVERFLOW PARKING LOT PROJECT AT THE AQUATICS CENTER](#)20
Recommended Action(s):
 1. Accept as Complete the Interim Overflow Parking Lot Project at the Aquatics Center in the Final Amount of \$53,321.84; and
 2. Direct the City Clerk to File the Notice of Completion with the County Recorder's Office.
5. [APPROVAL OF GRANT AGREEMENT WITH SANTA CLARA VALLEY WATER DISTRICT TO ASSIST WITH CITY'S STORM WATER QUALITY PUBLIC OUTREACH PROGRAM](#)22
Recommended Action(s): Authorize the City Manager, Subject to City Attorney Review, to Execute a Grant Agreement with the Santa Clara Valley Water District to Provide \$32,000 to the City in Support of Storm Water Quality Public Outreach Efforts.
6. [RESIGNATION OF A LIBRARY, CULTURE & ARTS COMMISSIONER](#)23
Recommended Action(s):
 1. Accept Bert Berson's Resignation from the Library, Culture and Arts Commission; and
 2. Direct the City Clerk to Commence Recruitment Efforts to Fill the Vacancy.
7. [ADOPT ORDINANCE NO. 1731, NEW SERIES](#)24
Recommended Action(s): Waive the Reading, and Adopt Ordinance No. 1731, New Series, and Declare That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ARTICLES II AND III, THE STANDARDS AND CRITERIA AND PROCEDURES OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM AS SET FORTH IN CHAPTER 18.78 OF THE MORGAN HILL MUNICIPAL CODE.**

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEM 8

Time Estimate

Page

Consent Calendar: 1 - 10 Minutes

8. [APPROVE SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JULY 6, 2005](#)79

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 1

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: City of Morgan Hill v. Hernandez
Case Number: Santa Clara County Superior Court, Case No. 1-04-CV-020063
Attendees: City Manager, Interim City Attorney, and Attorney Gale Connor

3.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority: Government Code 54957
Public Employee Performance Evaluation: City Manager
Attendees: City Council, City Manager

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

ADJOURNMENT



CITY COUNCIL STAFF REPORT

MEETING DATE: July 20, 2005

INTERVIEWS TO FILL VACANCIES ON THE ARCHITECTURAL REVIEW BOARD (ARB); LIBRARY, CULTURE & ARTS COMMISSION; MOBILE HOME RENT COMMISSION; AND PLANNING COMMISSION

Agenda Item # 1

Prepared By:

**Council Services &
Records Manager/
City Clerk**

Submitted By:

City Manager

RECOMMENDED ACTIONS:

1. Council **discussion** about the characteristics/traits it is seeking in candidates to serve on the ARB; Library Culture & Arts Commission; Mobile Home Rent Commission and Planning Commission;
2. Council to **conduct** interviews;
3. Council to discuss candidates;
4. Council to **identify** recommended candidates up to the number of vacancies available on Boards/Commission, plus 1, as deemed appropriate; and
5. Mayor to **return with recommended** appointments for Council discussion and ratification of appointments

EXECUTIVE SUMMARY:

At the July 6, 2005 meeting, the Council agreed to proceed with the Mayor's fundamental principles for a recruitment, interview and appointment process, with a couple of modifications. (See attached Fundamental Principles, as modified.) The Council agreed to give Mayor Kennedy's fundamental principals a try, and agreed to conduct interviews to fill vacancies on the ARB; Library, Culture & Arts Commission; Mobile Home Rent Commission; and Planning Commission.

Also, at the July 6, 2005 meeting, the Council agreed to discuss the characteristics it is looking for in candidates to serve on the board and various commissions before proceeding with the interviews. Therefore, the Council may wish to proceed with this discussion prior to commencing with the interview process.

Staff will note that one of the topics for Council discussion on July 6 was the ability to have applicants respond to Council identified questions on the City Board, Commission and Committee interest application. Staff conducted the recruitment process prior to the Council's discussion and adoption of the Fundamental Principles for a recruitment, interview and appointment process. Specific questions to be identified by the Council will be incorporated in next year's recruitment process.

Staff requests that the Council review the attached list of vacancies. The list identifies the number of vacancies that exist on the Board and Commissions. Upon conclusion of board and commission interviews, the Council should identify top candidates for each board and commission, plus 1, as deemed appropriate. Mayor Kennedy will return to the Council with a recommended list of appointments for further Council discussion and ratification of appointments.

FISCAL IMPACT: The time necessary to prepare this report is accommodated in the Council Services and Records Manager's operating budget.

CURRENT VACANCIES ON BOARDS AND COMMISSION

Architectural & Site Review Board (ARB)

There are currently four (4) vacancies on the ARB. Jim Fruit (architect), Jerry Pyle (landscape architect) and Rod Martin (general contractor) have terms expiring. These three incumbents have agreed to serve the City for another two years, and are requesting that the Council consider their prior applications (attached).

Lori Cain resigned from the ARB in April 2005 due to motherhood. Staff has been unsuccessful in soliciting applications from individuals willing to serve on the ARB. Should the Council reappoint the three incumbents, one vacancy would remain to be filled. The Council may wish to consider the qualifications of other candidates to be interviewed on July 20 and determine whether there is another qualified candidate willing to serve on this Board.

Section 2.56.020A of the Morgan Hill Municipal Code states that “Members of the ARB must represent the following professions: one registered architect or design professional in a related field selected by the City Council; one landscape architect (or horticulturist); a licensed general contractor (or a similarly qualified individual representing the construction industry); and two other persons with experience in city planning, graphic design, or a broad knowledge of plant material, building design, or other physical design professions associated with the development process.”

Library, Culture & Arts Commission

There are currently two (2) vacancies on the Library Commission, one created by the recent resignation of Bert Berson. The City is in receipt of an application from Sylvia Cook who is willing to serve on the Library, Culture & Arts Commission. Her application is attached.

Mobile Home Rent Commission

There are two (2) vacancies on the Mobile Home Rent Commission: 1) a citizen at large, and 2) a mobile home park owner/representative. Incumbent Eric Gould was appointed by the Council to serve on this Commission in October 2004. Mr. Gould is requesting that his prior application be considered as part of his reappointment consideration. The City is in receipt of two other applications from citizens interested and willing to serve on the Mobile Home Rent Commission: Gloria Subocz and Swanee Edwards. Their applications are attached for Council consideration. The City has not received an application from a mobile home park owner/representative.

Planning Commission

There are three (3) vacancies on the Planning Commission. Commissioners Geno Acevedo, Robert Benich and Charles Weston each had terms expiring in April and whose terms were extended by the City Council until such time the Council concluded the interview and appointment process. Commissioners Acevedo and Benich are seeking reappointment. In addition to their applications, the City received applications from Kyle Baker, Mike Davenport, Mike Miramontes, and Lee Schimdt. Their applications are attached for Council consideration.

Staff will note that Geno Acevedo does not reside within the City limits but does reside within the City's sphere of influence. Section 2.36.020 (Membership—Terms of Office—Vacancies) gives the Council the authority to appoint one Planning Commissioner who resides outside the City limits, but within the City's sphere of influence.



CITY COUNCIL STAFF REPORT

MEETING DATE: JULY 20, 2005

FOX HOLLOW-MURPHY SPRINGS ASSESSMENT DISTRICT-ABANDONMENT OF PROCEEDINGS TO INCREASE ASSESSMENTS PURSUANT TO PROP 218

RECOMMENDED ACTION: Adopt attached resolutions to levy assessments at the previously authorized FY 04/05 rate.

EXECUTIVE SUMMARY: On July 6, 2005 Council conducted a Public Hearing and directed staff to tabulate ballots received in response to an assessment ballot proceeding initiated on May 4, 2005. This proceeding involved 16 of the 20 sub areas of the Fox Hollow Murphy Springs Landscape and Lighting Assessment District wherein property owners were asked to cast their vote relative to an assessment rate increase and or inflation factor annual increase.

The ballot tabulations resulted in 5 of the 16 sub areas approving the assessment increases. Council approved resolutions on July 6, 2005 to declare these results of the balloting process, order the levy of assessments for the sub areas wherein the increases were approved by the property owners, and approved the engineer's annual report as amended reflecting the balloting results.

Tonight it was necessary to have Council approve resolutions in the remaining 11 sub areas where the assessment rate increases did not carry. At the July 6, 2005 meeting staff informed Council that it would return with the above cited resolutions, and provide a description of the decrease in maintenance services resulting from the unsuccessful passing of the proposed assessment rate increases for these 11 sub areas. Staff will return yet at a later date to inform Council of the specific service reductions. Over the next 30 days, staff will meet with our maintenance contractor and solicit input from the property owners of the 11 sub areas regarding the maintenance services reductions. When appropriate service levels can be identified, staff will return to Council and provide this information.

FISCAL IMPACT: The cost for preparation of this staff report and the Proposition 218 Ballot Proceedings are paid for by the Assessment District. There is sufficient funding in the Annual Operating Budget to meet these expenses.

Agenda Item # 2

Prepared By:

**Deputy Director Public
Works/Operations**

Approved By:

Public Works Director

Submitted By:

City Manager

STAFF REPORT ATTACHMENT 1

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING THE RESULTS OF AN ASSESSMENT BALLOT PROCEEDING AND APPROVING CERTAIN ACTIONS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, JACKSON MEADOWS NUMBER 7 SUB AREA, FISCAL YEAR 2005/2006

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council called and duly held an assessment ballot proceeding for Fox Hollow/Murphy Springs Landscape Assessment District, Jackson Meadows Number 7 Sub Area (hereafter referred to as the "District") pursuant to Resolution No. 5905 for the purpose of presenting to the qualified property owners within the District a proposition for the increase in the assessments and an assessment range formula to allow for reasonable increases; and,

WHEREAS, The landowners of record within the District as of the close of the Public Hearing held on July 6, 2005 did not consent to the increase in the assessments and the assessment range formula to allow for reasonable increases; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 The above recitals are true and correct.

Section 2 The canvass of the votes cast in the District at the assessment ballot proceeding held in the District on July 6, 2005, is hereby approved and confirmed.

Section 3 The proposition, presented to qualified property owners of the District for receipt by the City Clerk on July 6, 2005, each has received a vote, weighted according to the proportional financial obligation of the affected property. Of the qualified property owners voting at said assessment ballot proceeding, the proposition has not carried. The City Council is hereby authorized to take the necessary steps to levy the assessment as authorized without the proposed increase above the previously authorized rate.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 20th Day of July, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 20, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

STAFF REPORT ATTACHMENT 2

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING THE RESULTS OF AN ASSESSMENT BALLOT PROCEEDING AND APPROVING CERTAIN ACTIONS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, CONTE GARDENS SUB AREA, FISCAL YEAR 2005/2006

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council called and duly held an assessment ballot proceeding for Fox Hollow/Murphy Springs Landscape Assessment District, Conte Gardens Sub Area (hereafter referred to as the "District") pursuant to Resolution No. 5905 for the purpose of presenting to the qualified property owners within the District a proposition for the increase in the assessments and an assessment range formula to allow for reasonable increases; and,

WHEREAS, The landowners of record within the District as of the close of the Public Hearing held on July 6, 2005 did not consent to the increase in the assessments and the assessment range formula to allow for reasonable increases; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 The above recitals are true and correct.

Section 2 The canvass of the votes cast in the District at the assessment ballot proceeding held in the District on July 6, 2005, is hereby approved and confirmed.

Section 3 The proposition, presented to qualified property owners of the District for receipt by the City Clerk on July 6, 2005, each has received a vote, weighted according to the proportional financial obligation of the affected property. Of the qualified property owners voting at said assessment ballot proceeding, the proposition has not carried. The City Council is hereby authorized to take the necessary steps to levy the assessment as authorized without the proposed increase above the previously authorized rate.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 20th Day of July, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 20, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

STAFF REPORT ATTACHMENT 3

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING THE RESULTS OF AN ASSESSMENT BALLOT PROCEEDING AND APPROVING CERTAIN ACTIONS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, MILL CREEK SUB AREA, FISCAL YEAR 2005/2006

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council called and duly held an assessment ballot proceeding for Fox Hollow/Murphy Springs Landscape Assessment District, Mill Creek Sub Area (hereafter referred to as the "District") pursuant to Resolution No. 5905 for the purpose of presenting to the qualified property owners within the District a proposition for the increase in the assessments and an assessment range formula to allow for reasonable increases; and,

WHEREAS, The landowners of record within the District as of the close of the Public Hearing held on July 6, 2005 did not consent to the increase in the assessments and the assessment range formula to allow for reasonable increases; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 The above recitals are true and correct.

Section 2 The canvass of the votes cast in the District at the assessment ballot proceeding held in the District on July 6, 2005, is hereby approved and confirmed.

Section 3 The proposition, presented to qualified property owners of the District for receipt by the City Clerk on July 6, 2005, each has received a vote, weighted according to the proportional financial obligation of the affected property. Of the qualified property owners voting at said assessment ballot proceeding, the proposition has not carried. The City Council is hereby authorized to take the necessary steps to levy the assessment as authorized without the proposed increase above the previously authorized rate.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 20th Day of July, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

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WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

STAFF REPORT ATTACHMENT 4

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING THE RESULTS OF AN ASSESSMENT BALLOT PROCEEDING AND APPROVING CERTAIN ACTIONS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, JACKSON MEADOWS 6A/6B SUB AREA, FISCAL YEAR 2005/2006

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council called and duly held an assessment ballot proceeding for Fox Hollow/Murphy Springs Landscape Assessment District, Jackson Meadows 6A/6B Sub Area (hereafter referred to as the "District") pursuant to Resolution No. 5905 for the purpose of presenting to the qualified property owners within the District a proposition for the increase in the assessments and an assessment range formula to allow for reasonable increases; and,

WHEREAS, The landowners of record within the District as of the close of the Public Hearing held on July 6, 2005 did not consent to the increase in the assessments and the assessment range formula to allow for reasonable increases; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 The above recitals are true and correct.

Section 2 The canvass of the votes cast in the District at the assessment ballot proceeding held in the District on July 6, 2005, is hereby approved and confirmed.

Section 3 The proposition, presented to qualified property owners of the District for receipt by the City Clerk on July 6, 2005, each has received a vote, weighted according to the proportional financial obligation of the affected property. Of the qualified property owners voting at said assessment ballot proceeding, the proposition has not carried. The City Council is hereby authorized to take the necessary steps to levy the assessment as authorized without the proposed increase above the previously authorized rate.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 20th Day of July, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

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WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

STAFF REPORT ATTACHMENT 5

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING THE RESULTS OF AN ASSESSMENT BALLOT PROCEEDING AND APPROVING CERTAIN ACTIONS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, DIANA ESTATES SUB AREA, FISCAL YEAR 2005/2006

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council called and duly held an assessment ballot proceeding for Fox Hollow/Murphy Springs Landscape Assessment District, Diana Estates Sub Area (hereafter referred to as the "District") pursuant to Resolution No. 5905 for the purpose of presenting to the qualified property owners within the District a proposition for the increase in the assessments and an assessment range formula to allow for reasonable increases; and,

WHEREAS, The landowners of record within the District as of the close of the Public Hearing held on July 6, 2005 did not consent to the increase in the assessments and the assessment range formula to allow for reasonable increases; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 The above recitals are true and correct.

Section 2 The canvass of the votes cast in the District at the assessment ballot proceeding held in the District on July 6, 2005, is hereby approved and confirmed.

Section 3 The proposition, presented to qualified property owners of the District for receipt by the City Clerk on July 6, 2005, each has received a vote, weighted according to the proportional financial obligation of the affected property. Of the qualified property owners voting at said assessment ballot proceeding, the proposition has not carried. The City Council is hereby authorized to take the necessary steps to levy the assessment as authorized without the proposed increase above the previously authorized rate.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 20th Day of July, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 20, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

STAFF REPORT ATTACHMENT 6

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING THE RESULTS OF AN ASSESSMENT BALLOT PROCEEDING AND APPROVING CERTAIN ACTIONS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, HAMILTON SQUARE SUB AREA, FISCAL YEAR 2005/2006

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council called and duly held an assessment ballot proceeding for Fox Hollow/Murphy Springs Landscape Assessment District, Hamilton Square Sub Area (hereafter referred to as the "District") pursuant to Resolution No. 5905 for the purpose of presenting to the qualified property owners within the District a proposition for the increase in the assessments and an assessment range formula to allow for reasonable increases; and,

WHEREAS, The landowners of record within the District as of the close of the Public Hearing held on July 6, 2005 did not consent to the increase in the assessments and the assessment range formula to allow for reasonable increases; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 The above recitals are true and correct.

Section 2 The canvass of the votes cast in the District at the assessment ballot proceeding held in the District on July 6, 2005, is hereby approved and confirmed.

Section 3 The proposition, presented to qualified property owners of the District for receipt by the City Clerk on July 6, 2005, each has received a vote, weighted according to the proportional financial obligation of the affected property. Of the qualified property owners voting at said assessment ballot proceeding, the proposition has not carried. The City Council is hereby authorized to take the necessary steps to levy the assessment as authorized without the proposed increase above the previously authorized rate.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 20th Day of July, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 20, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

STAFF REPORT ATTACHMENT 7

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING THE RESULTS OF AN ASSESSMENT BALLOT PROCEEDING AND APPROVING CERTAIN ACTIONS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, OAK CREEK I, II, III SUB AREA, FISCAL YEAR 2005/2006

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council called and duly held an assessment ballot proceeding for Fox Hollow/Murphy Springs Landscape Assessment District, Oak Creek I, II, III Sub Area (hereafter referred to as the "District") pursuant to Resolution No. 5905 for the purpose of presenting to the qualified property owners within the District a proposition for the increase in the assessments and an assessment range formula to allow for reasonable increases; and,

WHEREAS, The landowners of record within the District as of the close of the Public Hearing held on July 6, 2005 did not consent to the increase in the assessments and the assessment range formula to allow for reasonable increases; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 The above recitals are true and correct.

Section 2 The canvass of the votes cast in the District at the assessment ballot proceeding held in the District on July 6, 2005, is hereby approved and confirmed.

Section 3 The proposition, presented to qualified property owners of the District for receipt by the City Clerk on July 6, 2005, each has received a vote, weighted according to the proportional financial obligation of the affected property. Of the qualified property owners voting at said assessment ballot proceeding, the proposition has not carried. The City Council is hereby authorized to take the necessary steps to levy the assessment as authorized without the proposed increase above the previously authorized rate.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 20th Day of July, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 20, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

STAFF REPORT ATTACHMENT 8

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING THE RESULTS OF AN ASSESSMENT BALLOT PROCEEDING AND APPROVING CERTAIN ACTIONS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, ROSE HAVEN SUB AREA, FISCAL YEAR 2005/2006

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council called and duly held an assessment ballot proceeding for Fox Hollow/Murphy Springs Landscape Assessment District, Rose Haven Sub Area (hereafter referred to as the "District") pursuant to Resolution No. 5905 for the purpose of presenting to the qualified property owners within the District a proposition for the increase in the assessments and an assessment range formula to allow for reasonable increases; and,

WHEREAS, The landowners of record within the District as of the close of the Public Hearing held on July 6, 2005 did not consent to the increase in the assessments and the assessment range formula to allow for reasonable increases; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 The above recitals are true and correct.

Section 2 The canvass of the votes cast in the District at the assessment ballot proceeding held in the District on July 6, 2005, is hereby approved and confirmed.

Section 3 The proposition, presented to qualified property owners of the District for receipt by the City Clerk on July 6, 2005, each has received a vote, weighted according to the proportional financial obligation of the affected property. Of the qualified property owners voting at said assessment ballot proceeding, the proposition has not carried. The City Council is hereby authorized to take the necessary steps to levy the assessment as authorized without the proposed increase above the previously authorized rate.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 20th Day of July, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 20, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

STAFF REPORT ATTACHMENT 9

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING THE RESULTS OF AN ASSESSMENT BALLOT PROCEEDING AND APPROVING CERTAIN ACTIONS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, PARSONS CORNER SUB AREA, FISCAL YEAR 2005/2006

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council called and duly held an assessment ballot proceeding for Fox Hollow/Murphy Springs Landscape Assessment District, Parsons Corner Sub Area (hereafter referred to as the "District") pursuant to Resolution No. 5905 for the purpose of presenting to the qualified property owners within the District a proposition for the increase in the assessments and an assessment range formula to allow for reasonable increases; and,

WHEREAS, The landowners of record within the District as of the close of the Public Hearing held on July 6, 2005 did not consent to the increase in the assessments and the assessment range formula to allow for reasonable increases; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 The above recitals are true and correct.

Section 2 The canvass of the votes cast in the District at the assessment ballot proceeding held in the District on July 6, 2005, is hereby approved and confirmed.

Section 3 The proposition, presented to qualified property owners of the District for receipt by the City Clerk on July 6, 2005, each has received a vote, weighted according to the proportional financial obligation of the affected property. Of the qualified property owners voting at said assessment ballot proceeding, the proposition has not carried. The City Council is hereby authorized to take the necessary steps to levy the assessment as authorized without the proposed increase above the previously authorized rate.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 20th Day of July, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 20, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

STAFF REPORT ATTACHMENT 10

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING THE RESULTS OF AN ASSESSMENT BALLOT PROCEEDING AND APPROVING CERTAIN ACTIONS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, LA GRANDE ESTATES SUB AREA, FISCAL YEAR 2005/2006

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council called and duly held an assessment ballot proceeding for Fox Hollow/Murphy Springs Landscape Assessment District, La Grande Estates Sub Area (hereafter referred to as the "District") pursuant to Resolution No. 5905 for the purpose of presenting to the qualified property owners within the District a proposition for the increase in the assessments and an assessment range formula to allow for reasonable increases; and,

WHEREAS, The landowners of record within the District as of the close of the Public Hearing held on July 6, 2005 did not consent to the increase in the assessments and the assessment range formula to allow for reasonable increases; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 The above recitals are true and correct.

Section 2 The canvass of the votes cast in the District at the assessment ballot proceeding held in the District on July 6, 2005, is hereby approved and confirmed.

Section 3 The proposition, presented to qualified property owners of the District for receipt by the City Clerk on July 6, 2005, each has received a vote, weighted according to the proportional financial obligation of the affected property. Of the qualified property owners voting at said assessment ballot proceeding, the proposition has not carried. The City Council is hereby authorized to take the necessary steps to levy the assessment as authorized without the proposed increase above the previously authorized rate.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 20th Day of July, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 20, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk

STAFF REPORT ATTACHMENT 11

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL, CALIFORNIA, DECLARING THE RESULTS OF AN ASSESSMENT BALLOT PROCEEDING AND APPROVING CERTAIN ACTIONS WITHIN THE FOX HOLLOW/MURPHY SPRINGS LANDSCAPE ASSESSMENT DISTRICT, SANDALWOOD SUB AREA, FISCAL YEAR 2005/2006

The City Council of the City of Morgan Hill (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, the City Council called and duly held an assessment ballot proceeding for Fox Hollow/Murphy Springs Landscape Assessment District, Sandalwood Sub Area (hereafter referred to as the "District") pursuant to Resolution No. 5905 for the purpose of presenting to the qualified property owners within the District a proposition for the increase in the assessments and an assessment range formula to allow for reasonable increases; and,

WHEREAS, The landowners of record within the District as of the close of the Public Hearing held on July 6, 2005 did not consent to the increase in the assessments and the assessment range formula to allow for reasonable increases; and,

NOW, THEREFORE BE IT RESOLVED, DETERMINED, AND ORDERED BY THE CITY COUNCIL FOR THE DISTRICT, AS FOLLOWS:

Section 1 The above recitals are true and correct.

Section 2 The canvass of the votes cast in the District at the assessment ballot proceeding held in the District on July 6, 2005, is hereby approved and confirmed.

Section 3 The proposition, presented to qualified property owners of the District for receipt by the City Clerk on July 6, 2005, each has received a vote, weighted according to the proportional financial obligation of the affected property. Of the qualified property owners voting at said assessment ballot proceeding, the proposition has not carried. The City Council is hereby authorized to take the necessary steps to levy the assessment as authorized without the proposed increase above the previously authorized rate.

PASSED AND ADOPTED by the City Council of Morgan Hill at a Regular Meeting held on the 20th Day of July, 2005 by the following vote.

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

☞ CERTIFICATION ☞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on July 20, 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk



CITY COUNCIL STAFF REPORT

MEETING DATE: *July 20, 2005*

INDOOR RECREATION CENTER PROJECT – JUNE CONSTRUCTION PROGRESS REPORT

RECOMMENDED ACTION(S): *Information Only*

EXECUTIVE SUMMARY:

Previous Council action awarded the contract for construction of the Indoor Recreation Center Project to West Coast Contractors, Inc. At that time, staff informed Council that we would report monthly on the progress of the construction. Attached is the progress report for the month of June. This report has been sent to our webmaster for posting on the City's website.

The contractor is continuing the underground utilities to the building. Footings have been excavated and rebar is currently being installed. The first of three concrete footing pours was successfully completed on July 8, 2005. The webcam is fully operational and can be viewed online at www.novapartners.com/mhirc. Barring any unforeseen circumstances, the anticipated Grand Opening is September 5, 2006. The project is currently on schedule and within budget.

FISCAL IMPACT: None

Agenda Item # 3

Prepared By:

Project Manager

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: July 20, 2005

ACCEPTANCE OF THE INTERIM OVERFLOW PARKING LOT PROJECT AT THE AQUATICS CENTER

RECOMMENDED ACTION(S): Accept as complete the Interim Overflow Parking Lot Project at the Aquatics Center in the final amount of \$53,321.84 and direct the City Clerk to file the attached Notice of Completion with the County Recorder's office.

EXECUTIVE SUMMARY:

The contract for the Interim Overflow Parking Lot Project at the Aquatics Center was awarded to Trinchero Construction Inc. by the City Council at their April 20, 2005 meeting in the amount of \$50,377. The project resulted in construction of the new Interim Overflow Parking Lot at the City of Morgan Hill Aquatics Center and a baserock parking area at the second entrance to San Pedro Ponds Trail. One change order increased the construction contract by \$2,944.84. The work has been completed in accordance with the plans and specifications.

FISCAL IMPACT: Sufficient funding was previously approved and no additional appropriation is necessary.

Agenda Item # 4

Prepared By:

Project Manager

Approved By:

Public Works Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: July 20, 2005

APPROVAL OF GRANT AGREEMENT WITH SANTA CLARA VALLEY WATER DISTRICT TO ASSIST WITH CITY'S STORM WATER QUALITY PUBLIC OUTREACH PROGRAM

RECOMMENDED ACTION: Authorize the City Manager, subject to City Attorney review, to execute a Grant Agreement with the Santa Clara Valley Water District to provide \$32,000 to the City in support of Storm Water Quality Public Outreach efforts.

EXECUTIVE SUMMARY: The Santa Clara Valley Water District's (SCVWD) Clean, Safe Creeks and Natural Flood Protection Program includes an urban runoff pollutant reduction effort for cities in the south Santa Clara County. Financial assistance in the way of a grant is available to cities for programs that reduce urban runoff pollutants that could enter creeks, streams, and water bodies. The City applied for and has received \$32,000 for various public outreach efforts described below.

The City of Morgan Hill is required to comply with the National Pollutant Discharge Elimination System (NPDES) permit established by the Environmental Protection Agency and regulated by the State of California Water Quality Control Board. The City has developed a Storm Water Management Plan to ensure compliance and a key component of that Plan is public outreach. In the City's application to the SCVWD, funds were requested for the following items: 1.) Purchase of a public events exhibit stand; 2.) creation of storm water pollution prevention artwork to be exhibited at public events; 3.) purchase of flyers, brochures, and other public outreach materials; and 4.) purchase of educational kits to be distributed to school children.

Under the terms of the grant, the City has until June 2006 to purchase the items described and must report back to the SCVWD on progress and status of the grant expenditures. In addition, all materials purchased shall bear acknowledgement of the SCVWD's contribution. There are no matching funds required to receive the grant money. Staff recommends that the City Council authorize the City Manager to execute the Grant Agreement, which is attached, as it will further the City's NPDES obligations and promote cleaner storm water runoff in Morgan Hill.

FISCAL IMPACT: No matching funds required.

Agenda Item # 5

Prepared By:

Deputy Director PW

Approved By:

Department Director

Submitted By:

City Manager



CITY COUNCIL STAFF REPORT

MEETING DATE: July 20, 2005

Agenda Item # 6

Prepared By:

**Council Services &
Records Manager/
City Clerk**

Submitted By:

City Manager

RESIGNATION OF A LIBRARY, CULTURE & ARTS COMMISSIONER

RECOMMENDED ACTIONS:

1. **Accept** Bert Berson's Resignation from the Library, Culture and Arts Commission; and
2. **Direct** the City Clerk to Commence Recruitment Efforts to Fill the Vacancy

EXECUTIVE SUMMARY:

The City has received an e-mail from Bert Berson, dated June 15, 2005, indicating that he is resigning from the Library Commission due to personal reasons. Mr. Berson's term was due to expire April 1, 2006. Although Mr. Berson is resigning from the Library Commission, he plans on playing an active role in helping to achieve the library objectives in the community. To this end, he plans to work with Carol O'Hare and the Friends of the Library.

Staff recommends that the Council accept Mr. Berson's resignation from the Library, Culture & Arts Commission. Further, that staff be directed to commence recruitment efforts to fill an unexpired term on the Library, Culture & Arts Commission.

FISCAL IMPACT: The time necessary to prepare this report is accommodated in the Council Services and Records Manager's operating budget.



CITY COUNCIL STAFF REPORT

MEETING DATE: July 20, 2005

Agenda Item # 7

Prepared By:

Deputy City Clerk

Approved By:

City Clerk

Submitted By:

City Manager

ADOPT ORDINANCE NO. 1731, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ARTICLES II AND III, THE STANDARDS AND CRITERIA AND PROCEDURES OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM AS SET FORTH IN CHAPTER 18.78 OF THE MORGAN HILL MUNICIPAL CODE.

RECOMMENDED ACTION(S):

Waive the Reading, and **Adopt** Ordinance No. 1731, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

EXECUTIVE SUMMARY:

On July 6, 2005, the City Council Introduced Ordinance No. 1731, New Series, by the Following Roll Call Vote: AYES: Carr, Grzan, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.

FISCAL IMPACT:

No budget adjustment required.

ORDINANCE NO. 1731, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ARTICLES II AND III, THE STANDARDS AND CRITERIA AND PROCEDURES OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM AS SET FORTH IN CHAPTER 18.78 OF THE MORGAN HILL MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAIN:

SECTION 1. The Residential Development Control System (RCDS) is codified at Chapter 18.78 of the Municipal Code. Measure C, approved by the voters on March 2, 2004, and adopted under Ordinance No. 1665, requires the City Council to amend Article II of Chapter 18.78 of the Municipal Code, the “Specific Policies” as necessary to conform to all provisions of this initiative. In accordance with Measure C and other changes as recommended by the Planning Commission, the City Council hereby updates and amends the provisions of Article II and Article III of Chapter 18.78, and accordingly adopts the Code amendments set forth in the attached Exhibit “A.”

Changes from the text of the Morgan Hill Municipal Code amending Articles II and III are shown by strike-out text for deletions, and bold italic text for additions.

SECTION 2. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 3. Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 6th Day of July 2005, and was finally adopted at a regular meeting of said Council on the Day of July 2005, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

ATTEST:

APPROVED:

Irma Torrez, City Clerk

Dennis Kennedy, Mayor

∞ **CERTIFICATE OF THE CITY CLERK** ∞

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1731, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the Day of July 2005.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk

Exhibit “A”

Article II. Specific Policies

18.78.180. A Summary of Standards and Criteria

Residential Development Control System (RDCS) **Summary of Standards and Criteria**

Part 2 Specific Standards and Criteria

18.78.210	Schools	Maximum Awarded:	25
			<u>Points</u>
			<u>Available</u>
	1. Developer fees		16
	2. Safe walking routes		6
	3. Off-site pedestrian safety improvements		4
18.78.220	4. Community Room for after school programs		<u>2</u>
		28	
	Open Space	Maximum Awarded:	20
			<u>Points</u>
			<u>Available</u>
	1.a Open space buffer		2
18.78.230	1.b Common useable open space		3
	1.c Convenient access to parks		1
	1.d Accessibility to parks/open space		1
	1.e Historical landmarks		2
	2. Ratio of buildings to open space		11
	3. Downtown open space amenity fee		6
18.78.240	4. TDC's		<u>6</u>
			32
	Orderly and Contiguous	Maximum Awarded:	20
			<u>Points</u>
			<u>Available</u>
	1. Near central core		8
18.78.250	2. Fills in existing utilities		6
	3. Adjacent to existing development		5
	4. Subsequent phase of development		2
	5. Quality of project master plan		<u>1</u>
			22
	Public Facilities	Maximum Awarded:	10
18.78.260			<u>Points</u>
			<u>Available</u>
	1. Micro or small vertical mixed use		3
	2.a Grids water mains to existing system		2
	2.b Design consistent with City storm drain system		1

2.c Location of storm drain lines	2
2.d Design of on-site detention/retention pond	2
2.e Contribution to local drainage fund	1
2.f Provides public improvements	4
2.g Contribution to public facilities fund	<u>1</u>
	16

18.78.250	Parks and Paths	Maximum Awarded:	10
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	<u>Points</u>
	<u>Available</u>
1. In lieu fee – small project	4
2. Amenities	4
3. Bike paths/equestrian trails	1
4. Downtown area	3
5. Neighborhood park	2
6. Additional park fees: double	3
7. Additional park fees: triple	6
8. Exceed dedicated land requirement	<u>4</u>
	27

18.78.260	Housing Needs	Maximum Awarded:	15
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	<u>Points</u>
	<u>Available</u>
2. 10% moderate rate units	2
3. Housing mitigation fee	6
4.a Affordable units for sale	13
4.b Downtown Area Project	10
5. Minimum 10% BMR in joint venture with non-profit agency	13
6. Double standard housing mitigation fee	<u>6</u>
	50

18.78.270	Housing Types	Maximum Awarded:	15
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	<u>Points</u>
	<u>Available</u>
1. Diversity of types and categories	7
2. Economic diversity	4
3. Variation of sizes	<u>4</u>
	15

18.78.280	Quality of Construction	Maximum Awarded:	15
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	<u>Points</u>
	<u>Available</u>
1. Exterior design	1
2a. Conservation of resources	
a. Energy Star windows	2
b. Two zone heating	2
c. Efficient A/C	1
d. Efficient gas furnace	1
e. Use of alternative energy	2
f. Certified HVAC and ductwork	1

2.b Water conservation	1
3.a Cast iron drain pipe	1
3.b Construction techniques exceed code	1
4. Architectural variation and differentiation	
a. Porches and balconies	2
b. Roof lines	1
c. Profiles and massing	1
d. Relief and details	<u>2</u>
	19

18.78.290 Lot Layout and Orientation Maximum Awarded: **15**

	<u>Points</u> <u>Available</u>
1. Good site design and layout	
a. Avoids deep or narrow lots	1
b. Separation of buildings	1
c. Avoids sharp angled lots	1
d. Driveways <150 ft. long	1
e. Transition of lot sizes	1
f. Overall excellence of project and minimum number of changes	2
2. Street design	
a. Location to parks and open space	1
b. Visibility of entrances	1
3. Variety of setbacks	
a. Between units – front	1
b. Between units – rear	1
c. Variation of lot widths	1
d. Garage placement	2
4. Measures to reduce noise	2
5. Downtown area – 3 rd story setback	1
6. Downtown area – variation of façade	1
7. Downtown area – shared parking	<u>1</u>
	19

18.78.300 Circulation Efficiency Maximum Awarded: **15**

	<u>Points</u> <u>Available</u>
1a. Discourage fast traffic	1
1.b Future street extensions	2
1.c Future drive aisles/ parking lots	1
1.d Looping pattern of circulation	1
1.e eliminate existing stubs	2
1.f Avoids short blocks	1
1.g Minimum 20ft. clear view backout distance	1
1.h Multiple access streets	1
1.i Landscaped islands and entry monument	1
1.j Facilitates emergency response	1
1.k Provides public parking in downtown area	2
2.a Internal circulation for local residents	1
2.b Avoids undesirable future traffic situations	1
3. Dedication or improvement to existing streets and parking lots outside of project	2

4. R3 Project: minimizes conflicting backout movements	1
5. R3 Project: Amenities not near parking or circulation aisles	1
6. Downtown area projects	
a. Mid-block pedestrian connections	1
b. Entries oriented to public streets	1
c. Closes gaps in pedestrian and bike network	1
d. Provides bike racks	<u>1</u>
	24

18.78.310	Safety and Security	Maximum Awarded:	10
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	<u>Points Available</u>
1.a Provide fire escape ladder and fire extinguishers	0.5
1.b Provide first aid kit	0.5
1.c Other non-code fire protection device	0.5
1.d Provide outdoor lighting	0.5
1.e Illuminated address numbers and curb numbers	1
1.f Other intrusion protection device or approved construction technique	0.5
2. Non-combustible siding materials	2
3. Monitored alarm system	3
4. Fire sprinkler system	3
5. Neighborhood emergency preparedness Program through HOA	1
6. Carbon monoxide detection device	1
7. Neighborhood "Watch Program" in CC&R's	<u>1</u>
	14.5

18.78.320	Landscaping, Screening & Color	Maximum Awarded:	10
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	<u>Points Available</u>
1.a 24" box-size trees within project	1
1.b Shading & screening of group parking areas	1
1.c Varied front yard landscaping	1
1.d Energy saving trees on south walls	1
1.e 24" trees for streets	1
1.f Adheres to Street Tree Master Plan	1
2.a Drought tolerant grasses	0.5
2.b Automatic irrigation systems	0.5
2.c Pleasing hardscape coverage	0.5
2.d Use of water conserving plants	0.5
2.e Separate water source for irrigation of common area	2
2.f Small & Micro projects: Separate water supply for common area irrigation	1
3. Visible landscaping to public	1
4. Minimize drainage runoff	2
5. Downtown Area: Use of building color	<u>1</u>
	15

18.78.330	Natural and Environmental	Maximum Awarded:	10
		<u>Points</u>	
		<u>Available</u>	
1.a	Minimize grading	1	
1.b	Restricts runoff	1	
1.c	Preserves trees	1	
1.d	Preserves natural setting	1	
1.e	Improves natural conditions on adjacent sites	2	
2.a	Provides privacy for residents	1	
2.b	Protects existing open space	2	
2.c	Minimizes use of sound walls	2	
3.	Reduces construction waste	1	
4.	Solar power generation	1	
5.	Incorporates Green Building Design concepts	<u>2</u>	
		15	

18.78.340	Livable Communities	Maximum Awarded:	10
		<u>Points</u>	
		<u>Available</u>	
1.	Planning Commission excellence	2	
2.	Low maintenance walkways and bike paths	1	
3.	Encourages use of public transportation	1	
4.	Nearness to public transportation	2	
5.	Sidewalk improvements	1	
6.	Walking distances to stores, schools, employment	1	
7.	Vertical mixed use project	2	
8.	Builds to planned densities	3	
9.	In-fill projects	<u>2</u>	
		15	

18.78.180.B Background.

A. The residential development control system was adopted in response to the need to establish a growth rate in Morgan Hill that is conducive to orderly and controlled residential development. The success of any growth-management system depends upon how well it addresses and exemplifies the goals of the general plan, as well as other adopted city ordinances and documents. Any requirements made by this system shall use existing city plans and policies, as well as exploring innovative means to facilitate its implementation.

B. The residential development control system is a competitive qualifying process intended only to compare projects and allow the highest scoring projects to proceed on in the development process. Developers and city staff should not construe it as a design review or an absolute approval with any entitlement other than the right to file a tentative map or development plan. Changes to the project (1) are encouraged to improve its quality; and (2) may be required for formal project approval.

C. Concerns have been expressed about the Morgan Hill Unified School District (MHUSD) impaction situation and the fact that the rural character associated with the city is

being lost to urban development that is outstripping the city's ability to provide adequate services and facilities. Also, a disproportionate amount of moderate to expensive single-family homes have been built, as opposed to a balance of housing types at prices to meet the needs of all the segments of the population, including those of low or fixed incomes. It is intended that a response to these concerns will be accomplished in a practicable manner through implementation of the residential development control system, which will concurrently address the preservation of open space and the natural environment. (Ord. 1034 N.S. § 1 (part), 1991)

18.78.182 Rate of growth.

The method by which controlled growth will be accomplished involves building approximately two hundred fifty* new dwelling units annually in order to reach a population not to exceed forty eight thousand people by the year 2020.

* The number of building allotments authorized under the RDCS may be less than two hundred fifty units per year because of other housing which would be exempt from the RDCS (construction of single dwellings, etc.) (Ord. 1034 N.S. § 1 (part), 1991)

18.78.184 Procedures.

A. ~~In~~ **No later than** May of each year preceding an allotment evaluation, the planning officer and planning commission will provide recommendations to the city council regarding the total number and distribution of building allotments. The city council will establish the total number of housing units to be awarded and the number of units to be allotted for each type of housing.

B. The planning officer will inform interested developers of the total number of units available and the various types of housing units that will be approved. The planning officer will hold a pre-competition meeting with all persons interested in submitting an application. The planning officer will explain the allotment process and distribute applications. At this meeting developers will be encouraged to indicate the proposed project location, the number of units, and the type of housing. This information will assist the city and developers in providing better competition for the various types of housing units to be built under the RDCS process.

C. In an attempt to further increase the quality of project design, a voluntary preliminary review process shall be implemented. This review process shall have staff priority in the months of June, July, and August whereby responses to these submittals shall be received within four weeks from the date of filing. These responses shall include, but not be limited to, the following: (1) Section A evaluation; (2) Section B evaluation, (3) any recommendations for project improvement; (4) any public health, safety and welfare issues; (5) any need for any

additional information, plans or studies. (Ord. 1179 N.S. § 1, 1994; Ord. 1034 N.S. § 1 (part), 1991)

18.78.186 Overview.

A. The first section (Section 18.78.200) is concerned with the general ability of the city to provide major public facilities and services to new residential projects without creating additional impactation. This section is weighted heavily, meaning that a proposed project must obtain the minimum required points (~~nine~~ ***seven and a half*** points) and receive minimum passing scores under certain categories in order to proceed to the next step of the evaluation.

B. The next step, (Section 18.78.210) reflects the quality of the project design and the extent to which it contributes to the welfare of the community. The intent of these criteria is to encourage competition and to promote additional effort which creates innovative designs that satisfy user needs. The standards and criteria in Part 2 of this article are guidelines, and it is important to note that a developer is not precluded from improving upon or augmenting these guidelines, upon approval of the planning officer. Criteria for each category in Part 2 of this article are, therefore, more subjective and, thus, merely points out those items which the developer should consider to maximize his rating.

C. After successful completion of both Parts 1 and 2, the projects which have received at least ~~nine~~ ***seven and a half*** points in Part 1 and have been given the most points in Part 2 (one hundred ~~twenty-five~~ ***sixty*** points and over, ***except micro and 100% affordable projects, for which the total score is 150 points and over***) with minimum passing scores in certain categories will then be eligible for allotments and subsequent building permits, subject to Section 18.78.120. Those that may not receive any allotment this year will have an opportunity to improve their designs and reapply during the next competition.

D. The procedure for allotting development allotments has been incorporated into this system. The development allotment evaluation encourages all developers to locate and design the best project possible by following standards and criteria for both Sections 18.78.200 and 18.78.210. (Ord. 1034 N.S. § 1 (part), 1991)

18.78.188 Additional information.

A. Project Size. Council priority is to give priority to partially completed projects. This policy will allow continuity to the allotment process. The portion of the uncompleted project competing in a competition should be equal to or superior in quality to the original project receiving an allocation. Project applications for over one hundred fifty units will be considered based on benefits to the community.

B. Public Notices. The council policy of notifying neighboring properties within three hundred feet of proposed projects is expanded to give a greater number of people notice by means of the utility bill inserts and notice on cable TV.

C. Review of Standards and Criteria. The planning commission shall review the standards and criteria ~~each March~~, following an RDCS competition, to determine whether any changes or amendments are necessary for the next competition. ~~to begin each new allotment year, within sixty days after the awarding of allotments.~~ (Ord. 1034 N.S. § 1 (part), 1991)

18.78.190 Evaluation--Standards and criteria.

A. As provided for in Section 18.78.100 A, the planning officer shall review each application and determine whether or not the proposed development conforms to the City's General Plan. In addition, the planning officer shall review each application for conformance with the following: City street, parking and site development standards as set forth in Chapter 17.34 and Title 18 of the Morgan Hill Municipal Code. If the PO determines that a proposed development does not conform to the city codes as cited above, the application shall be rejected. Notice of such rejection shall be given pursuant to Section 18.78.100 A.

B. Within fifteen days after such notice is mailed, the applicant may appeal the decision of the PO to the city council as provided in Section 18.78.100 B. In considering an appeal the city council shall either affirm the decision of the PO to reject the application on the basis of nonconformity with the plans (General Plan and City Codes), or reverse the decision by finding that the proposed development is in conformity with the plans, or permit the applicant to modify his proposed development to bring it into conformity with the plans.

C. Proposed developments found by the PO or city council to conform to the General Plan shall be evaluated by the PO and awarded points as hereinafter set forth. The planning commission shall establish a specific set of standards and criteria to direct the PO in assigning points under each category in Parts 1 and 2 of this article. The PO shall submit his evaluation to the planning commission and the commission shall approve, disapprove or modify the PO's evaluation by simple majority vote. (Ord. 1179 N.S. § 2, 1994; Ord. 1034 N.S. § 1 (part), 1991)

Part 1. Point System

18.78.200 Rating system for proposed developments.

Each proposed development shall be examined for its relation to and impact upon local public facilities and services. The appropriate city department or outside public agencies shall provide recommendations to the PO, and the PO shall rate each development by assigning from zero to two points for each of the following:

A. 1. The ability and capacity of the water system to provide for the needs of the proposed development without system extensions beyond those which the developer will consent to provide.” (Comments of the director of public works.)

2. Each subdivision application shall be reviewed by the director of public works for determination of the ability and capacity of the water system to provide for the needs of the proposed development.

2 Points. The existing water system and improvements that upgrade water service and fire protection in the general neighborhood such as gridding, well, or booster pump, are provided as determined by the director of public works.

1 or 1.5 Points. The existing water system has adequate capacity to serve the development and improvements would tie into existing water mains without gridding or otherwise providing upgrades to the existing water system.

0 Points. The existing water system and improvements necessary for water service or fire protection will tax the existing system beyond the city's ability to provide adequate service.

B. 1. "The ability and capacity of the sanitary sewer distribution and treatment plant facilities to dispose of the waste of the proposed development without system extensions beyond those which the developer will consent to provide." (Comments from the director of public works.)

2. Each subdivision application shall be reviewed by the director of public works for determination of the ability and capacity of the sanitary sewer distribution and treatment plant facilities to dispose of the waste generated by the proposed development.

2 Points. Existing sewer lines and treatment plant have sufficient capacity to serve the project.

1 or 1.5 Points. Extension of existing sewer lines directly from the project, and the sanitary waste generated by the project which taxes the existing line capacity is mitigated as determined by the director of public works, and there is sufficient capacity in the treatment plant.

0 Points. The proposed development would adversely impact the existing line capacity or treatment plant, or the existing line capacity is insufficient to handle the waste generated by the proposed project (or in any way fails to meet the standards for one or two points).

C. 1. "The ability and capacity of the drainage facilities to adequately dispose of the surface runoff of the proposed development without system extensions beyond those which the developer will consent to provide." (Comments from the Santa Clara Valley Water District and the director of public works.)

2. Each subdivision application shall be reviewed by the director of public works and Santa Clara Valley Water District for determination of the ability and capacity of the drainage facilities to adequately dispose of the surface runoff of the proposed development.

2 Points. Local drainage generated by the project is capable of draining into existing storm drainage facility, or a permanent public improvement to carry the runoff into a receiving drainage way which has sufficient capacity is provided.

1 or 1.5 Points. Local drainage generated by the project is mitigated by use of private on-site detention with higher value given for permanence, quality and guaranteed maintenance.

0 Points. Local drainage generated by the project is not capable of draining into the existing permanent storm drainage facility (or in any way fails to meet the standard two points).

D. 1. "The ability of the city-designated fire department to provide fire protection according to the established response standards of the city without the necessity of establishing a new station or requiring addition of major equipment or personnel to an existing station, and the ability of the police department to provide adequate patrols for residential and traffic safety without the necessity of acquiring new equipment or personnel." (Comments from the fire and police departments.) (Ord. 1034 N.S. § 1 (part), 1991)

2. Each subdivision application shall be reviewed by the fire and police departments for the determination of the ability of the fire department to provide fire protection according to the established response standards and the ability of the police department to provide adequate patrols for residential and traffic safety. Proposed developments must be assigned a minimum of one point in this category to qualify under Part 1 of the evaluation.

1.5 Points. Fire protection response times are within the established response standards of the city from at least two fire stations.

1 Point. Fire protection response times are within the established response standards of the city from at least one fire station and no more than 15% in excess of the response time standard from a second station.

.5 Points. Fire protection response times are within the established response standards of the city from at least one fire station.

0 Points. The project cannot be served by the existing fire personnel without requiring additional stations, equipment or personnel (or in any way fails to meet the standard for a .5 point total above)

.5 Points. The project adjoins existing developed land with proper road access for maximum efficiency of police patrols.

NOTE: For scoring purposes, the city Fire Department or contract agency, shall publish on July 1 of each competition year, a map showing the area which can be serviced within the established fire response time standard from the California Division of Forestry facility located on Monterey Road at Watsonville Road.

E. 1. "The ability and capacity of major street linkage to provide for the needs of the proposed development without substantially altering the existing street system (the desired target traffic level being no worse than "D+" level of service as defined in the 1985 Transportation Research Board Report # 209), except as otherwise allowed in the General Plan, and the availability of other public facilities (such as parks, playgrounds, etc.) to meet the additional demands for vital public services without extension of services beyond those provided by the developer." (Comments from the appropriate department heads.)

2. Each subdivision application shall be reviewed by the director of public works and parks and recreation director for determination of the ability and capability of major street linkage to provide for needs of proposed development and of the availability of other public facilities, such as parks and playgrounds, to meet the additional demands. Proposed developments must be assigned a minimum of one point in this category to qualify under Part 1 of the evaluation.

2 Points. The project can be served by the existing parks and street systems, and the completion of the project will not overload any local, collector or arterial street in the immediate area.

1 or 1.5 Points. The project can be served by the existing parks and street systems as defined above, and if there are public off-site improvements, they are relatively minor and the project will not contribute to the need for major street improvements.

0 Points. Compliance to Chapter 17.28 of this code. The project cannot be served by the existing street system, and will contribute to the need for major off-site public improvements (or in any way fails to meet the standard for one or two points).

NOTE: Development may be evaluated on an individual basis on its ability to provide private recreational service for its residents that complement city services, i.e., trails, private open space, association facilities, etc. All proposed trails, private open space and associated facilities should be permanently secured with appropriate documentation at the time of development. (i.e., deeds, easements, C.C.& Rs., dedication, homeowners associations, etc.). Land that is set aside for the above mentioned items as a nonpermanent use, could dedicate all future development rights to the city. This procedure is to allow neighborhood control over land that may not be needed in the future (i.e., storm water retention areas). (Ord 1323 N.S. §§ 36 and 37, 1997; Ord. 1228 N.S. § 1, 1995; Ord. 1179 N.S. §§ 3 & 4, 1994; Ord. 1034 N.S. § 1 (part), 1991)

Part 2. Specific Standards and Criteria

18.78.210 Schools.

A. "The provision of school facilities and amenities as attested by agreement with the Morgan Hill Unified School District (MHUSD) to the extent such consideration is not in conflict with state law.

..... (25 points)"

B. Standard and Criteria:

1. ~~Seventeen~~ **Sixteen points** will be awarded for the payment of the district-adopted developer fees as provided by the Leroy F. Greene School Facilities Act of 1998. Full market value credit will be applied to a direct payment to the School District, for donated land, construction, or other services provided by a developer or project property owner that relate to provision of school facilities.

2. Up to **six** additional **points** may be awarded to a project where:

At the time of application submittal or applicant commits as part of the first year of the first phase of the current application, a safe walking route exists or will be provided between the project site and existing or planned MHUSD schools. A safe route is defined as continuous sidewalks and/or paved pedestrian pathways, cross walks and caution signals at designated street intersections between the project and a school site.

The distance to a school is measured as the lineal distance a student would walk, from the average center point of housing in a project to the nearest entrance point of the nearest school grounds.

a. The project is within 3/4 of a mile of a school serving grades K through 3 and:

i. The students are not required to cross railroad tracks, or a street that currently functions (based on peak hour level of service as determined by the Public Works Department) as a collector or arterial. **(half point)**

ii. The students are not required to cross railroad tracks, or a street that is designated within the General Plan as a collector or arterial. **(half point)**

b. The project is within 3/4 of a mile of a school serving grades 4 through 6 and:

i. The students are not required to cross railroad tracks, or a street that currently functions (based on peak hour level of service as determined by the Public Works Department) as an arterial. **(half point)**

ii. The students are not required to cross railroad tracks, or a street that is designated within the General Plan as an arterial. **(one point)**

c. The project is within 1.5 miles of a middle/intermediate school and :

i. The students are not required to cross railroad tracks, or a street that currently functions (based on peak hour level of service as determined by the Public Works Department) as an arterial unless the most direct street crossing can occur at a signalized intersection. **(half point)**

ii. The students are not required to cross railroad tracks, or a street that is designated within the General Plan as an arterial unless the most direct street crossing can occur at a signalized intersection. **(one point)**

d. The project is within 1.5 miles of a *Live Oak or Sobrato* high school. **(two points)**

e. Proposed development will be for senior citizens as defined in Section 51.2 of the State Civil Code. **(six points)**

NOTE: For scoring purposes, the anticipated attendance area for an existing or planned school shall be as determined by the Board of Education and published by the School District as of September ~~30~~ **15** of the fiscal year for each competition. A planned school is defined as a site designated by the School Board for a future school prior to September 30 of the fiscal year the competition is held. Scoring for a multi-year/phased development includes recognition of all pedestrian safety or traffic improvements provided in the initial or previous phases of the development.

3. Up to **four additional points** may be awarded to a project which:
 - a. Provides off-site pedestrian safety improvements or traffic safety improvements near a MHUSD school. Any proposed pedestrian and traffic safety improvements cannot be redundant of improvements committed to in other categories. The cost of the improvements must be valued at \$ 1100 per point per unit. The pedestrian improvements and traffic safety improvements must be made to an elementary school within 3/4 of a mile (straight line distance) of the edge of project site or the same improvements can be made to a middle or high school within the City's Urban Service Area. **(up to three points)**

Note: The public improvements offered under the above section must be separate from the public improvements offered under Section B.1.f of the Public Facilities Category, Section B.3.a ~~through~~ of the Circulation Efficiency Category or B.5 of the Livable Communities Category.

For safe walking route improvements, applicants must also provide a letter from each intervening property owner stating agreement to dedicate the required street right-of-way for the sidewalk or pathway improvements between

the project site and the designated school. Improvements to establish a safe walking route must be completed prior to completion of the 20th unit in the development or completion of the project, whichever occurs first.

- b. The project is located within a Community Facilities (Mello-Roos) District established by the Morgan Hill Unified School District to finance new school facilities. The proposed project phase(s) will only receive points in this category if their Mello-Roos payment exceeds by \$ 1100 or more per dwelling unit the Leroy F. Greene School Facilities Act (state-mandated) fees in effect on December 1st of the fiscal year of the competition. One point will be awarded for each \$ 1100 per dwelling unit the proposed project's average dwelling unit school fees costs exceeds the state-mandated per dwelling unit fees. **(up to three points)**
- 4. ***Provides an on-site community room that is specifically designed for and can be used for after school educational programs such as homework tutoring, music lessons, etc., and is available for use at no cost to the Morgan Hill Unified School District. (two points)***

NOTE: Full market value credit will be applied to a direct payment to the School District, for donated land, construction, or other services provided by a developer or project property owner that relate to provision of school facilities. (Ord. 1575 N.S. § 1, 2002; Ord. 1517 N.S. § 1, 2001; Ord. 1486 N.S. §§ 1 & 2, 2000; Ord. 1404 N.S. § 1, 1998; Ord. 1346 N.S. § 1, 1997; Ord. 1304 N.S. §§ 1 & 2, 1996; Ord. 1228 N.S. § 2, 1995; Ord. 1179 N.S. §§ 5 & 6, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

18.78.220 Open space.

A. "The provisions of public and/or private usable open space, and where applicable, greenbelts.
..... **(20 points)"**

1. The provisions of open space is desirable for the physical and mental well-being of the city residents, as well as preserving a rural atmosphere and invoking a positive reaction to the environment. These open spaces can then be used for both passive and active recreation for all age groups, while also preserving the environment for present and future generations to enjoy.

B. Standards and Criteria.

- 1. Open space areas are provided or maintained within the proposed development.

a. Provides open space buffer areas adjacent to freeway or arterial streets, measuring five feet in depth in excess of the zoning code requirements for **one point**, 10 feet in excess of the code for **two points**. **(up to two points)**;

b. Public or private common useable open space is encouraged where neighborhood homeowners associations or other acceptable private maintenance entity can be used to coordinate their use and maintenance **(three points)**;

c. Provides convenient access to public or private parks internal to the project where appropriate through the use of bicycle and pedestrian pathways. Bicycle and pedestrian pathways shall be located in areas no less than 20 ft. wide, with an average width of 30 ft. (for the entire length of the path). The pathway provided shall be paved or other suitable durable surface and a minimum of 7 ft. in width. The proposed pathway(s) cannot be redundant of public sidewalks. **(one point)**

d. Provides accessibility to existing or proposed public parks and open space areas outside the project boundary and encourages multiple uses and fee dedication of open space areas adjacent to flood control right of ways and recharge facilities. Points will only be awarded where the relevant public agency has provided written approval to allow access between the project and the aforementioned facilities. The access provided cannot be redundant of the public sidewalk. **(one point)**.

Note: Requires public agency ownership or agreement to accept dedication of the land by the public agency.

e. Historical sites and landmarks on or adjacent to the project site are maintained in as natural state as possible with limited supportive development such as parking facilities, fencing, signing, etc. **(up to two points)**

2. Provides a high ratio of total open space area. **(A maximum of eleven points will be assigned under *either subsection a or subsection b of this criteria*)**

<i>a.</i>	<u>Building Coverage (%)</u>	<u>Points</u>
	55 - < 60	1
	50 - < 55	2
	45 - < 50	3
	40 - < 45	4
	35 - < 40	5
	30 - < 35	6
	25 - < 30	7

20 -	< 25	8
15 -	< 20	9
10 -	< 15	10
0 -	< 10	11

b. Building coverage for vertical mixed use projects, projects in the CC-R district or projects zoned R-4 or similar high density zoning classification will be calculated as follows:

<u><i>Building Coverage (%)</i></u>	<u><i>Points</i></u>
<i>70 - <75</i>	<i>5</i>
<i>65 - <70</i>	<i>6</i>
<i>60 - <65</i>	<i>7</i>
<i>55 - < 60</i>	<i>8</i>
<i>< 55</i>	<i>9</i>

Building coverage is defined as that portion of the overall project master plan, exclusive of driveways and streets, which is covered by a building, parking lot or carport.

3. Downtown vertical mixed use projects will be awarded up to six points for a commitment to contribute toward a shared open space amenity such as a park or downtown plaza.

a. In addition to the points available under Subsection B.4 below, a vertical mixed use project will be awarded three points for payment of a downtown open space amenity fee. The amount of the fee shall be equal to the most recent adjusted open space fee (see Note 1 below). Eligible projects that elect to pay double the fee will be awarded six points.

3 4. There is a maximum of **6 points** available in this category.

a. The project will receive **three points** for a commitment to purchase transferable development credits (TDCs) from property owners with land of greater than twenty percent slope. (Based upon the cumulative project to date ratio of one TDC for every twenty-five dwelling units proposed.)

b. Projects of 24 units or less which do not provide a common area park or open space will receive **six points** for a commitment to purchase double TDC's.

c. Projects zoned R-2, R-3, or similar higher density classification will receive **six points** for a commitment to purchase double TDC's.

Note 1: In lieu of the TDC commitment, projects of 24 units or less, ***Downtown Area projects*** and affordable project developments will be awarded ~~four~~ **three points** for payment of an open space fee at the rate of ~~\$15,000~~ **\$36,880** per TDC, **or** Eligible projects that elect to pay double the open space fee will be awarded **six points**. The amount of the open space fee shall be based on the average cost per dwelling unit for an equivalent TDC commitment as specified above. The open space fee shall be adjusted annually in accordance with the annual percentage increase or decrease in the median price of a single-family detached home in Santa Clara County. The base year from which the annual percentage change is determined shall be January 1, ~~1996~~ **2005**. The base year may be adjusted by City Council Resolution prior to the filing deadline for each competition year.

Note 2: Projects containing both single and multi-family zoning will be granted a proportional share of points for commitments to a. & c. above. Points will be granted based on a percentage of units within the various zoning districts within the entire overall project. For example, a project of 50 percent R-2 and 50 percent R-1 would receive 50 percent of the 6 points available under 3c. and 50 percent of the 3 points available for the single-family TDC commitment under 3a. for a total of 4.5 points (rounding will occur to the nearest half point). (Ord. 1575 N.S. §§ 2 & 3, 2002; Ord. 1517 N.S. §§ 2 & 3, 2001; Ord. 1486 N.S. §§ 3 & 4, 2000; Ord. 1438 N.S. § 1, 1999; Ord. 1404 N.S. § 2, 1998; Ord. 1346 N.S. § 2, 1997; Ord. 1228 N.S. § 3, 1995; Ord. 1179 N.S. § 7, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

18.78.230 Orderly and contiguous development.

A. "The extent to which the proposed development accomplishes the orderly and continuous extension of existing development rather than "leapfrog" development, by using land contiguous to urban development within the city limits or near the central core and by the filling in on existing utility lines rather than extending utility collectors.

..... **(20 points)"**
For scoring purposes, "the central core" is the area illustrated on the Central Core Map, attached as Exhibit B and described generally as that area bounded on the west by Del Monte Avenue from Wright Avenue to Ciolino Avenue and by West Little Llagas Creek from Ciolino Avenue to Cosmo Avenue; on the east by the rail road tracks from the easterly prolongation of Wright Avenue to Main Avenue, by Butterfield Boulevard from Main Avenue to Dunne Avenue, and by Church Street from Dunne Avenue to the easterly prolongation of Cosmo Avenue; on the north by Wright Avenue and its easterly prolongation to Church Street.

2. A well planned community is one which provides for the needs of its residents. Convenience, economy, and service are aspects which an orderly and contiguous development pattern can help facilitate.

B. Standards and Criteria.

1. Develops lands near the central core of the city as defined by Exhibit "B" to Measure "C" approved by the voters on March 2, 2004. There is a benefit for development to be within the central core area. However, it is recognized that the city does not have a well defined central core. Therefore, greater emphasis is to be given to contiguous patterns of growth. Projects within the core area will receive eight points. Projects located outside the core area will receive from zero to seven points depending on their relationship to the core area as shown below:

- a. Within central core, eight points,
- b. Within six hundred feet of the central core area, 7.5 points;
- c. Within one thousand two hundred feet of the central core area, 7 points;
- d. Within one thousand eight hundred feet of the central core area, 6.5 points;
- e. Within two thousand four hundred feet of the central core area, 6 points;
- f. Within three thousand feet of the central core area, 5.5 points;
- g. Within three thousand six hundred feet of the central core area, 5 points;
- h. Within four thousand two hundred feet of the central core area, 4.5 points;
- i. Within four thousand eight hundred feet of the central core area, 4 points;
- j. Within five thousand four hundred feet of the central core area, 3.5 points;
- k. Within six thousand feet of the central core area, 3 points;
- l. Within six thousand six hundred feet of the central core area, 2.5 points;
- m. Within seven thousand two hundred feet of the central core area, 2 points;
- n. Within seven thousand eight hundred feet of the central core area, 1.5 points;
- o. Within eight thousand four hundred feet of the central core area, 1 point;
- p. Within nine thousand feet of the central core area, ½ point;
- q. More than nine thousand feet from central core area, zero points.

Note: If any portion of a project is within the central core, as defined by the PO, that project shall be considered within the central core area. The distance from the central core shall be measured using the minimum distance between any portion of a parcel and the central core boundary measured in a straight line.

2. Fills in existing utility lines (requires no off-site extensions) and provides a contiguous pattern of growth. If water is available at the site and the water main is of sufficient capacity and supply to serve the proposed project and future development, the project will receive **one point**. If sewer is available to the site and the sewer main has sufficient capacity to serve the proposed project and future development, the project will receive **two points**. If storm

drains are of sufficient capacity to serve the project and are available to the site, the project will receive **one point**. If the project is located within the established response time standard of one fire station, the project will receive **one point**. If the project is located within the established response time standard of two or more fire stations, the project will receive **one additional point**.

3. A proposed development located within the existing urban service area which provides for orderly growth and urban in-fill is preferable and helps prevent premature urbanization of agricultural land. Projects that provide for orderly growth patterns throughout residential neighborhoods and compatibility with adjacent and nearby land uses are preferable. Projects that are located adjacent to land that has been developed or approved for development shall be scored as follows:

- a. > 0 -- 20% Adjacent to existing development, **one point**
- b. >20 -- 40% Adjacent to existing development, **two points**
- c. >40 -- 60% Adjacent to existing development, **three points**
- d. >60 -- 80% Adjacent to existing development, **four points**
- e. >80 -- 100% Adjacent to existing development, **five points**

Adjacent development is defined as contiguous property located within MH's city limits, urban service area, or urban growth boundary (UGB) and which is developed to its ultimate potential according to the city's General Plan or zoning of the property, or at least substantially developed according to the General Plan or zoning. To be considered substantially developed, at least ninety-five percent of the contiguous land area must be committed or developed to its ultimate use. Contiguous property does not include streets, railroad rights-of-way, or parcels held in fee title by a public utility or public agency containing above or below ground utilities such as gas pipelines, electric power transmission lines, or major water distribution pipelines.

County lands dedicated as a public facility or encumbered with an open space easement, or contiguous property within MH's UGB committed to an ultimate land use such as a city park, developed school site, or private open space will also be considered as adjacent development. Open space lands which are owned in private must have a public open space easement recorded over the corresponding area. For scoring purposes, undeveloped property which by September 30th 15th of the fiscal year the competition is held has received either final map approval, or tentative map and development agreement approval for projects with previously completed phase(s), or for which building permits have been issued, shall be considered to be developed property. The perimeter established for the complete (master-planned) project will be used to determine adjacency for every RDCS submittal. Where previously allocated phases of the same project have been developed or have received final map approval and are immediately adjacent

to an otherwise undeveloped external boundary, that portion of the project's perimeter shall then be considered developed, provided the project is making satisfactory progress according to the approved development schedule (project is not in default).

The percentage of a property that is adjacent to development shall be that percentage of the combined length of the subject property lines which is determined to be contiguous to adjacent development as defined in this subsection. The subject property is defined as a single parcel or contiguous parcels of record on which the proposed project would be located and shall include that portion of the subject property designated for future development. A designated remainder parcel shall not be considered a portion of the subject property except where development on all or a portion of the remainder parcel is proposed as part of the current project application.

4. A proposed development which is a subsequent phase of a previously approved project that has been awarded allotments provides for the continuous extension of existing development.

a. A proposed development which is a subsequent or final phase of a previously allocated development and consists of ~~30~~ **40** dwelling units or less shall be awarded ~~two one~~ point. **(two one point)**

b. A continuing project will receive ~~one~~ **two** points if one half of the units allocated for the fiscal year the competition is held have been issued building permits **and on site improvements for those units have been completed** by September ~~30~~ **15**, AND all prior phases are under construction or completed (excluding customs). **(one two points)**

OR

If a proposed development is a continuing project and does not have any allocations for the FY the competition is held, the project will receive ~~one~~ **two** points if all previous phases (if any) are under construction.

Note: To qualify for any points under paragraph B4, the proposed development at total build-out, shall not exceed the number of units proposed in the original Development Application from which the project had been awarded an initial building allotment, unless approved by the Planning Commission prior to the competition's application submission deadline. The number of units requested for each subsequent fiscal year shall be no more than 25% above any single highest year allotment for the proposed project to a maximum of ~~30~~ **40** units. The 25% or ~~30~~ **40**-unit limit includes any units already allocated to the project in that fiscal year as a result of a prior fiscal year competition. For Subsection B4a and B4b above, ~~earlier phases of development must also be in compliance with the development schedule approved for the project except where the delay is due to extended city processing~~ **all prior**

allotments must also have an approved development agreement and the project must be in compliance with said agreement.

5. Project Master Plan design is above average in terms of addressing internal street circulation and access requirements, appropriate transition of lot size and density within the development and with surrounding developments, and aggregation and use of common open space areas. **(minus one point, zero or one point)**

Note: Project Master Plan determined to be only satisfactory with respect to the above items will be awarded zero points. Project Master Plan determined to be of a poor design will receive minus one point under this criterion. A project will be awarded one point if no significant design flaws can be found, and the design gives strong consideration to the issues of circulation, access, density transitions, and the use of common open space. If a project master plan has two or more significant design flaws, it will be considered below average and one point will be taken away. A design flaw would be something that, at the subdivision stage, staff would ask to be modified or not recommend for Planning Commission approval. Significant design flaws would basically require the redesign of the master plan. For scoring purposes, that portion of an ongoing project awarded a building allotment prior to October 1, 1999, shall not be considered within the Project Master Plan design, except where the inclusion of the earlier allocated phase(s) would result in a higher overall score. (Ord. 1575 N.S. § 4, 2002; Ord. 1517 N.S. § 4, 2001; Ord. 1486 N.S. §§ 5 & 6, 2000; Ord. 1438 N.S. §§ 2 & 3, 1999)

18.78.240 Public facilities.

A. "The provision of needed public facilities such as critical linkages in the major street system, or other vital public facilities.

..... **(10 points)"**

2. The public facilities which serve the Morgan Hill area can benefit by discriminate development which improves the existing systems. Many areas exist where improvements to the systems are needed. A proposed project should help alleviate the problem rather than aggravate it.

B. Standards and Criteria. **(Maximum ten points)**

1. A micro, ***small vertical mixed use***, or affordable project will receive **(three points)** if it meets all standard requirements for design and construction of public facilities.

2. Installs public facilities of sufficient size to service the proposed development and future developments without the need to install supplemental facilities.

a. Grids water mains into the existing water system. **(two points)**

b. Drainage concept is consistent with the City's storm drain system. (e.g., the city's storm drain master plan, local area storm drain system). **(one point)**

c. Storm drain lines that are to be maintained by the city will be constructed entirely within the paved area of the street (curb to curb), or in a location acceptable to the Director of Public Works. **(one point)**

d. Storm drainage from the development is accommodated without the need for an on-site detention pond or open space retention areas, unless the on-site detention facility is appropriately located and sized so as to serve or coordinate with future area-wide or adjacent development. **(up to two points)**

Note 1. Applicants providing an oversized pond must supply information specifying how the pond sizing will address the area need and how other projects will be connected to the detention pond. The extra capacity provided must be stated in terms of the land area it can serve in acres and cubic feet. When the detention pond is not connected to other projects, the applicant must provide data satisfactory to the City's Public Works Department demonstrating the detention pond's benefit to other off-site projects. This shall be in the form of an agreement letter included the application submittal. Over sizing must equal 50 percent of the project drainage area or 10 acres, whichever is greater, to receive maximum points.

Note 2. Applicants who use a regional detention facility, a detention pond from another development, or a Santa Clara Valley Water District facility must supply an authorization/approval letter with their application.

e. Applicant will contribute \$ 1100 per unit to the Local Drainage Non-AB1600 fund for off-site storm drainage improvements, in addition to payment of standard fees. **YES __, or NO __** (Contingent commitments will not receive points) **(one point)**

f. Provides public facility *or pedestrian* improvements *from a city-approved list or improvements* on or adjacent to the project in excess of standard requirements, e.g., sewer, traffic control. *In the Downtown Area, these improvements can include pedestrian amenities such as lighting, planters that function as seating, seating and railings to lean on, refuse and recycling bins, public art and gateway features, consistent with the Downtown Plan.* **(maximum four points)**

Note: Under this criteria, the applicant needs to explain how and why the offered public improvements exceeds the city standards. Furthermore, the cost of the offered public improvements and dedication shall be equal to or greater than \$ 1100 per unit per point. Should the offered dedication and improvements be redundant to those offered under Section B.3 a thru c of the Circulation Efficiency (CE) category, the value of the redundant improvements will be reduced by \$1100 per unit per point for each point awarded under. Section B.3 ~~a thru e~~ in the CE category. For example, if redundant improvements are valued at \$3300 per unit here, and 2 points were awarded for them in CE, then only 1 point would be awarded for them here. The

improvements offered here and in the CE category also cannot be redundant of those improvements offered in Section B.3.a of the Schools category or B.5 of the Livable Communities Category.

Emphasis will be placed on improvements on or adjacent to the project but consideration will also be given to projects that provide improvements within one mile beyond their project boundaries. **(one - four points)**

g. Applicant will contribute \$1100 per unit to the Public Facilities Non-AB1600 fund. **YES __, or NO __** (Contingent commitments will not receive point) **(one point)**

Note: Proposed developments must be assigned a minimum passing score of five points under this category in order to qualify for building allotments.

Scoring for a multi-year/phased developments includes recognition all public facility improvements committed to be installed in the initial or previous phases of development (project completed to date vis-à-vis improvements completed to date) . The initial or previous phase of development must also be in compliance with the development schedule approved for the project. Ord. 1228 N.S. § 5, 1995; Ord. 1179 N.S. § 9, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1049 N.S. § 1, 1991; Ord. 1034 N.S. § 1 (part), 1991)

18.78.250 Parks and paths.

A. "Provision of parks, foot or bicycle paths, equestrian trails or pathways.

..... **(10 points)"**

1. The Morgan Hill area has many natural amenities that should be made accessible to its residents. Access should be made readily available by using a variety of methods, including foot and bicycle paths, and equestrian trails. By providing the opportunities to experience the areas natural amenities, a healthier attitude towards caring for and preserving the environment will be encouraged.

B. Standards and Criteria.

1. In lieu of dedicating land, projects of 24 units or less which are not providing parks ~~can~~ **are required to** pay a fee to the city equal to the value of the land prescribed for dedication. The amount of park land dedication or in lieu fee must be consistent with the requirements contained in Chapter 17.28 of this code. For the land dedication to apply, the property must be deeded to the City for public park purposes. Not applicable to passive open space or landscape buffer areas deeded to a homeowners association. **(four points** for projects of 24 units or less which are **not** providing parks)

2. Provides privately owned and maintained on-site recreational amenities which are of greater value and utility from the following list. Projects of 15-24 units may select from any category of amenities to count toward the score. Projects of 25-49 units will receive credit for a maximum of one amenity from the one point category list. To achieve maximum points, projects of 25-49 units must select additional amenities from either the two, three, or four point amenity categories. Projects of 50 units or more will only receive credit for amenities provided from the two point or higher point category lists.(up to four points)

Site Recreation Amenities

<p><u>One point amenities:</u> Shuffleboard Horseshoes Bowling green Open space turf areas Cabana or Shade trellis area Passive recreation area and/or gardens Passive water feature (e.g. fountain) Picnic/barbeque area</p>	<p><u>Three point amenities:</u> Softball Field Sports Court Restroom area ½ scale Soccer Field Tot lots (age appropriate play equipment/minimum 3 activities) Basketball Court (2 hoops) Child wading pool</p>
<p><u>Two point amenities:</u> Volleyball court Outdoor racquetball/handball tilt-up wall Water feature (pond, creek area) Sauna Tree Grove as approved by the City’s Architectural Review Board Community garden plots with water service ½ court basketball (one hoop) Bridle paths Bocce Ball Putting Green</p>	<p><u>Four point amenities:</u> Child Care Facility Swimming Pool Tennis Court Recreation Hall Exercise Room Indoor racquet sports court Par 3 course and/or pitch and putt golf course</p>

Points will also be awarded for any proposed amenity found by the Planning Commission to provide recreation or meet the needs of the project residents to a level similar to provided by the above. Point values in the above chart are based on a 50 unit project. For projects of 51 to 100 units, divide the above values by two. For projects of 101 - 150, divide the above point values by three, etc.

3. Provides Class I bicycle pathways or equestrian trails along the project frontage in accordance with the overall community-wide and/or county-wide bicycle master plans. In areas where a Class I bike path is not required, the project provides necessary street improvements and striping for Class II bike lanes. The project must provide at least one quarter mile of Class II bike lane improvements for each 10 dwelling units within the project. **(one point)**

4. *Projects located in the Downtown Area may be awarded up to three points based on the following criteria:*

a. *The project provides mid block pedestrian connections through large buildings that provide access to public or private open space areas and plazas. For the criterion to apply, the pedestrian connection must be continuous and unrestricted. (one point)*

b. *The main project entries are oriented directly to the public streets to encourage connections through the existing network of sidewalks. (one point).*

c. *The project closes gaps in the pedestrian and bicycle network through replacement or extension of sidewalks, pathways or bike lanes beyond the project frontage. (one point)*

4. 5. Proposed project will contribute toward the creation of a neighborhood park by providing a coordinated development plan which locates on-site parks and other permanent open space areas so as to allow expansion of these areas into adjoining future developments. A conceptual plan showing how the future park expansion may be implemented must be included in the project application. The conceptual plan shall identify the park area, list the number of amenities and show the layout of the amenities in the proposed park. Where necessary or appropriate, the plan should also allow these areas to be jointly utilized for storm water detention serving the proposed project and future area-wide development. **(two points)**

5 6. In addition to payment of standard park fees, applicant will pay the lesser of double the required in lieu park fees or \$1100 per point up to \$3300 per unit. **(up to three points) or**

6 7. Applicant (projects of 24 units or less who do not provide a park) will pay the lesser of triple the required in lieu park fees or \$1100 per point up to \$6600 per unit. **(up to six points)**

7 8. Public or private parks provided by the project exceed the dedicated land requirements stated in Chapter 17.28 of the Morgan Hill Municipal Code. **(one point** if exceed the requirement by 20%, **two points** if exceed by 30%, or **three points** if exceed by 40%, or **four points** if exceeds by 50%).

Note: The number of recreational amenities required pursuant to Section 18.18.060 shall be based on the total number of dwelling units within the project, including secondary dwelling units as defined in Section 18.04.164 of this title.

Scoring for a multi-year/phased development includes recognition all recreational amenities provided in the initial or previous phases of development (amenities provided to date vis-à-vis project completed to date). The initial phase of development must also be in compliance with the development schedule approved for the project. (Ord. 1575 N.S. § 8, 2002; Ord. 1517 N.S. §§ 6, 7 & 8, 2001; Ord. 1486 N.S. §§ 7 & 8, 2000; Ord. 1438 N.S. §§ 5 & 6, 1999; Ord. 1404 N.S. § 6, 1998; Ord. 1346 N.S. § 6, 1997; Ord. 1228 N.S. § 6, 1995; Ord. 1179 N.S. § 10, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

18.78.260 Housing needs.

A. "Provision of units to meet the city's need for low and moderate income and elderly housing and the extent to which such provision meets the goals of the housing element of the general plan, including the distribution of housing types to provide neighborhoods of ethnic and economic diversity.

..... (15 points)"

2. The city has an obligation to provide adequate housing for all segments of the population in a variety of lot sizes and dwelling types. It must do this in a fashion which creates diversified neighborhood environments and income groups, avoiding concentrations of any single income group in one particular residential neighborhood. A neighborhood mix of ethnic and economic diversity, as required by the housing element of the general plan will therefore be encouraged.

B. Standards and Criteria.

1. Provides affordable housing units for households ranging from very low to moderate income. Most units sold or rented at below market rates will receive increased density.

2. The project provides an additional 10 percent of its units as moderate rate homes. These units would not participate in the City's BMR program but would be in addition to the project's BMR commitment. The final sales price (at close of escrow) for the units will be based on HUD income limits for a family of 4 at the closing date. ***This criterion does not apply to projects awarded points under criterion B.4.b below. (two points)***

3. The project will receive **six points** if it chooses to pay the standard housing mitigation fee computed at ten percent of the total project.

~~Projects are also eligible to receive points in this category based on the percent and level of affordability of below market rate units built within the project. When in the process of~~

determining the number of below market rate units required, there occurs a fraction of a unit, any fraction less than .5 shall be paid as a corresponding fraction or percentage of the per unit cost of the standard housing mitigation fee. In phased developments, developer may carry the fractional share forward into succeeding phases until the fraction reaches .5 or higher. Any fraction of .5 or greater shall be deemed a requirement for one additional below market rate unit. The developer however, may continue to carry the partial credit forward into the next phase(s) of the overall development. Refer to the following charts to compute points.

4 a. Affordable Units For Sale:

Projects are also eligible to receive points in this category based on the percent and level of affordability of below market rate units built within the project. When in the process of determining the number of below market rate units required, there occurs a fraction of a unit, any fraction less than .5 shall be paid as a corresponding fraction or percentage of the per unit cost of the standard housing mitigation fee. In phased developments, developer may carry the fractional share forward into succeeding phases until the fraction reaches .5 or higher. Any fraction of .5 or greater shall be deemed a requirement for one additional below market rate unit. The developer however, may continue to carry the partial credit forward into the next phase(s) of the overall development. Refer to the following charts to compute points.

10% or Greater BMR Commitment			5% BMR Commitment		
P o i n t s	Percentage of BMR units LOW	Percentage of BMR units MEDIAN	Percentage of BMR units LOW	Percentage of BMR units MEDIAN	Allowable Density Bonus
15*					
13	5	8			15%
12	8	3			12%
12	10				10%

* Applicable to 100 percent affordable deed restricted projects.

For projects that commit to provide a 5% low and 8% median income affordable commitment, in the final phase, where the fractional share of the low and median income units combine to equal .5 or above, the project shall be required to provide one additional median income unit as fulfillment of the project's overall affordable housing commitment.

Affordable Units For Rent:
Applicable to 100 percent rental or non profit agency sponsored project

P o i n t s	10% BMR Commitment		5% BMR Commitment		Allowable Density Bonus
	Percentage of BMR units	Percentage of BMR units	Percentage of BMR units	Percentage of BMR units	
	VERY LOW	LOW	VERY LOW	LOW	
15	10	0			10%
11	5	5			7%
7	0	10	5	0	4%

b. In lieu of BMR commitment, a Downtown Area project may be awarded points for overall housing affordability as follow:

i. 100% of the units are affordable to less than moderate income households (8 points), OR

ii. 75% of the units are affordable to less than moderate income households and 25% of the units are affordable to less than median income households. (10 points)

5. A project may also be awarded 13 points if at least 10 percent of the dwellings are affordable at below market rates and the BMR units are constructed in a joint venture with a non profit builder. The following criteria shall apply to the joint venture development:

a. A letter of intent signed by both parties must be included with the RDCS application.

b. The homes are to be built by the nonprofit agency through a self help building program or other applicable program approved by the City.

c. The project must provide an area for a minimum of 8 BMR units as part of the joint venture agreement. If 10 percent of the project is less than 8 dwelling units, allocations above 10 percent of the project may be drawn from the affordable allotment set-aside if available, to achieve the 8 unit minimum.

d. The price range and target income of the buyers shall be determined and approved by the City and non profit agency prior to the RDCS application.

e. The site and architectural plans for the affordable units shall be shown on the plans and shall be considered part of the market rate application.

Note: If the applicant and non profit agency are unable to obtain the necessary funding, allotments, or encounter other obstacles and are unable to produce the affordable housing through the joint venture agreement; then the applicant will be required to choose one of the

other options to achieve 13 points under criteria B4 in this category. Any unused affordable building allotment transfer shall be returned to the affordable allotment set-aside category.

6. ***In addition to points awarded under criterion B.3 above***, a Micro, Small, or any project having all lots in excess of 20,000 square feet, will receive **six points** if it chooses to pay double the standard housing mitigation fee computed at ten percent of the total project (including replacement units).

Note: Proposed developments must be assigned a minimum passing score of eight points under this category in order to qualify for building allotments. (Ord. 1575 N.S. §§ 9, 10 & 11, 2002; Ord. 1517 N.S. §§ 9 & 10, 2001; Ord. N.S. 1486 § 9, 2000; Ord. 1438 N.S. § 7, 1999; Ord. 1404 N.S. § 7, 1998; Ord. 1346 N.S. §§ 7 & 8, 1997; Ord. 1323 N.S. § 38, 1997; Ord. 1228 N.S. § 7, 1995; Ord. 1179 N.S. § 11, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

18.78.270 Housing types.

A. "The extent to which the proposed development itself consists of a diversity of housing types to meet the goals of the housing element of the general plan.

..... **(15 points)"**

1. In order to develop residential neighborhoods which have a mix of housing types, new residential construction should consider the existing composition of the neighborhood and plan its housing design accordingly.

B. Standards and Criteria

1. Provides for a diversity of housing types:

a. Utilizes a mix of the various housing categories to provide housing diversity as follows by housing type* (a maximum of **seven points, two points** per housing type, excepting the 15% single story housing type which is worth **three points**).

Note. Rental projects will receive **seven points**. Owner occupied single-family attached, ***mixed use CC-R zoned projects*** and multi-family R2 and R3 ***and R-4*** zoned projects will receive **five points** for one housing type, and **seven points** for two or more housing types.

* Housing Types are defined as follows:

- Single-family detached
- Single-family attached (includes one and two unit condominium buildings).

- Multi-family rental or stacked condominium or condominium units in buildings containing three or more units.
- Custom lots
- Mobile homes
- Secondary dwelling units
- Single story dwelling units (must represent at least 15% of the total dwelling units)
- ***Small vertical mixed use (applies only to projects of 15 units or less in size)***

For the above determination, the number of units for a particular housing type when divided by the total number of units in the project, must represent at least ten percent of the total number of housing units in the development (fifteen percent for single story units). The ten percent requirement would be in addition to any housing type used for below market rate (BMR) units. Single story BMR units may be counted toward the fifteen percent overall requirement for single story units.

Note: The percentage requirements stated above are absolute figures. Rounding to the nearest whole number is not permitted. A minimum of 10 percent (fifteen for single story units) is required, i.e. rounding up to get 10 percent is not allowed.

b. Over and above the BMR units committed in this section, the project provides an additional 10% detached units in an R-2 project, an additional 10% attached units in an R-1 project or an additional 10% ownership (e.g., townhouse units) in an R-3 project. (two points maximum)

Projects that have both R-2 and R-1 zoning designations can receive one point for providing an additional 10% detached units in the R-2 project area and/or one point for providing an additional 10% attached units in an R-1 portion of the project.

Note: The 10 percent determination will be based on the overall project. For ongoing projects, this criterion will be applied to the remaining phases only. The percentage requirement stated above shall be an absolute figure, rounding to the nearest whole number is not permitted. A minimum of 10 percent is required, i.e. rounding up to get 10 percent is not allowed. This criterion only applies to for sale projects.

2. Provides for an economic diversity within the project.

a. The proposed project would augment the existing housing stock by providing housing which would be affordable under the income categories described below. A maximum of two points (or four points if for rent) may be awarded to projects which reserve a

portion of the total units (see table below) as affordable to very low income households within 100 percent rental projects or low income (ownership units) in other projects.

Note. A Micro, Small, or any project where all lots are in excess of 20,000 square feet, will receive **two points** if it chooses to pay the standard housing mitigation fee computed at ten percent of the total project (including replacement units), or **four points** if it chooses to pay double the housing mitigation fee.

For Sale Projects

10% or greater BMR Commitment		5% BMR Commitment		
P o i n t s	Provides for 10%+ affordable units LOW	Provides for 10%+ affordable units MEDIAN	Provides for 5% affordable units LOW	Provides for 5% affordable units MEDIAN
4*				
2	5	8		
1.5	8	3		
1.5	10			
1	5	5		

* *Applicable to 100 percent affordable deed restricted projects.*

Note: If the applicant and non profit agency are unable to obtain the necessary funding, allotments, or encounter other obstacles and are unable to produce the affordable housing through the joint venture agreement; then the applicant will be required to choose one of the other options to achieve the 2 points in this (for sale) category. Any unused affordable building allotment transfer shall be returned to the affordable allotment set-aside category.

For Rent Projects

	10% BMR Commitment		5% BMR Commitment	
P o i n t s	Provides for 10% affordable units VERY LOW/LOW	Provides for 10% affordable units LOW	Provides for 5% affordable units VERY LOW/LOW	Provides for 5% affordable units LOW
4	10	0		
3	5	5		
2	0	10	5	0
1			0	5

3. For single family/ownership projects, the proposed project provides for a variation of housing sizes within the project. The proposed project provides at least a fifty percent variation in house size from the smallest to largest floor plan and each house size represents at least ten percent of the total units (**four points**). For purposes of making the above determination, there must be at least three (3) different floor plans and a one hundred twenty square foot difference between the size of each floor plan where the floor plans do not exceed 1,500 square feet (less than one hundred twenty square feet difference will be aggregated as one floor plan). Where the floor plans exceed 1,500 square feet, there must be a two hundred square foot difference between the size of each floor plan (less than two hundred square feet difference will be aggregated as one floor plan).

For *small vertical mixed use*, multi-family projects, and 100% affordable non profit agency sponsored ownership projects, the variation will be based on number of bedrooms. A project which provides one bedroom units only, will receive **one point**. A project which provides a mix of one and two bedroom units or two bedroom units only, will receive **two points**. A project which provides dwelling units with a mix of one, two and three bedroom units or dwelling units with three or more bedrooms only within the development, will receive **four points**. Each bedroom category must represent at least ten percent of the total units. Affordable ownership projects must provide a minimum of three floor plans to be eligible for points under this criterion.

Note: BMR units may not be used when determining housing size variations

18.78.280 Quality of construction standards.

A. "Architectural design quality as indicated by the quality of construction and by the architectural elevations of the proposed buildings, judged in terms of architectural style, size, and height.

..... **(15 points)"**

2. The proposed project should create buildings that are responsive to the needs of its users and the environment, while also accomplishing it in an appealing and attractive manner. The overall project design should be compatible and harmonious with existing adjacent residential neighborhoods and land uses, while still maintaining its own special character.

B. Standards and Criteria.

1. Provides harmonious use of exterior building materials and varying front elevations with low repeat factors. A reverse floor plan does not count as a separate elevation. An elevation to be considered different must include significant modifications to the exterior appearance of the structure.

a. Floor plan & elevation repeats 0 -3.5 times: **one point**

For single family detached buildings, repeat factor is the total number of building lots divided by: the number of floor plans multiplied by the number of alternate elevations for each plan (i.e.: repeat factor = number of building lots/(floor plans)*elevations).

For single-family attached or multi-family buildings, repeat factor is the number of structures divided by: the number of different footprints times the number of alternate elevations for each footprint (must have a minimum of two elevations within the project).

2. Uses design and construction that conserve resources:

a. Provides for energy conservation through the use of energy-efficient building techniques, materials, and appliances, such that the buildings consume less energy than allowed by California's Title 24 Building Energy Efficiency Standards, as documented in the energy compliance reports submitted at the time of application for building permits. **(Maximum ~~four~~ five points will be assigned under this criterion)**

i. Uses EPA "Energy Star" labeled windows with low-e coatings and vinyl or metal frames, and includes installation of a high efficiency gas furnace of 90 percent efficiency rating or greater in all dwelling units. Applicant must specify how the 15 percent reduction in energy usage will be achieved. **(two points)**

ii. Provides two separately zoned high-efficiency heating systems in units over 3000 square feet, and units less than 3000 square feet whose floor plans allow effective dual-zoning. For maximum points, at least 60 percent of the dwelling units in the project must be dual-zoned and all units must include the installation of high efficiency gas furnaces with 90 percent efficiency rating or greater. **(up to two points)**

- iii. Installation of air conditioning units with high efficiency condensing unit with a SEER rating of 12 or higher. Must be installed in more than 60 percent of the dwelling units in the project. **(one point)**
 - iv. Installation of a high efficiency gas furnace with an efficiency rating of 90 percent or greater, in all units. Applicable only to projects that do not provide for a reduction in energy usage below Title 24 standards as specified in B3a(i) or the separately zoned heating systems as specified in B3a(ii) above. **(one point)**
 - v. Homes ~~utilize include solar panels for power generation and/or~~ alternate energy sources, such as solar hot water, solar space heating or other energy saving methods not included elsewhere in the category. **(up to two points)**
 - vi. ***Installation of a HERS (Home Energy Rating System) certified heating and air conditioning (HVAC) system with all duct work tested and certified to achieve a minimum 3 percent savings in the home energy budget. (one point)***
- b. Provides for household water conservation through innovative building techniques that result in reduced water waste, and which exceed current city and state standards. For example, recirculating hot water system with demand pumping, or other water saving plumbing systems or features such as a separate grey water (recycled water) irrigation system. Applicant must be specific in describing how the proposed system exceeds code requirements. Note: Not applicable to water conserving landscape irrigation systems such as sprinkler stations, timers or water saving sprinklers, etc. See scoring under Landscaping Category **(up to one point)**
3. Uses materials and construction techniques that exceed current building requirements of the Uniform Building Code adopted by the city as follows:
- a. Installation of cast-iron drainage pipe and piping insulation between floors for sound reduction of plumbing, and installation of future ready wiring concepts such as home running phone lines from all habitable rooms directly to main phone box rather than looping using RJ6 for television/video and high speed computer access, and CAT5R or equivalent for telephone lines. **(one point)**
 - b. Class A roof covering such as light weight concrete tile, architectural grade composition shingle or better and uses other materials and construction techniques that exceed current requirements, including, but not limited to glued and screwed subfloors, insulation of interior walls for sound, TJI floor joists, and pre-plumb gas lines to dryer along with 220 volt outlet. Not applicable to foundation designs. Applicants must specify how the construction techniques would exceed code requirements **(one point)**

Applicant must be specific in describing how the proposed materials and construction exceed code.

4. Provides architectural variation and differentiation as follows:
 - a. Uses porches, balconies, for any area viewed from the public right of way or multi unit courtyards interior to the project on at least 25% of units to promote a neighborhood feel **(two points)**
 - b. Uses at least two different roof lines and two different pitches throughout the project, i.e. gable, hipped, dormers, Mansard, etc. **(one point)**
 - c. Uses architecture and profiles and massing that conforms and works with the existing surrounding neighborhoods. Applicable only where a project adjoins an existing neighborhood on at least one side or twenty-five percent of the project's frontage. **(one point)**
 - d. Provides a consistent level of architectural relief and detailing on all four building elevations. Where two story rear and or side yard building elevations occur, architectural relief shall include some third dimensional design element such as bay windows, balconies, covered porches, decorative trellis, etc. In addition, each standard trim and base color must represent no more than 15% (project size permitting) of the project. **(up to two points)**
- (Ord. 1575 N.S. §§§§§ 14, 15, 16, 17 & 18, 2002; Ord. 1517 N.S. §§ 13 & 14 Ord. 1486 N.S. § 11, 2000; Ord. 1438 N.S. § 10, 1999; Ord. 1404 N.S. § 9, 1998; Ord. 1346 N.S. § 12, 1997; Ord. 1228 N.S. § 9, 1995; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

18.78.290 Lot layout and orientation.

A. "Site design quality as indicated by lot layout, orientation of the units on the lots, and similar site design consideration.

..... **(15 points)"**

1. The overall project's site design quality is largely dependent upon the layout of the individual lots. Variations in lot sizes and configurations must take place to accommodate changes in natural terrain and street design, although this is not to be construed as meaning that areas of consistent terrain need not have lot variations. The variations in lot size, shape, and layout would encourage a corresponding variation in house designs and orientations. Site design will incorporate the utilization of the sun and wind to the greatest extent possible for heating and cooling purposes.

B. Standards and Criteria.

1. Provides good site design considerations in all lot layouts.
 - a. In context of the overall project, avoids excessively deep or narrow lots. The project also must provide side yards at least 20 percent in excess of the minimum required to avoid crowding and to enhance spatial relationships. **(one point)**

- b. Provides building separations in apartment or condominium developments that are at least 20 percent in excess of minimum code requirements. **(one point)**
- c. Avoids excessive use of sharp angled lots which waste land and constitute poor building sites. **(one point)**
- d. Avoids creating lots which require driveways greater than 150 feet in length for access. **(one point)**
- e. A sufficient transition in lot sizes, or building sizes in R-3 developments, is proposed in the site plan design to allow compatibility between existing and proposed neighborhoods. **(one point)**
- f. Over-all excellence of lot layout. Layouts deemed to be average will receive **zero points**, above average layouts will receive **one point**, and superior layouts will receive **two points**.

For scoring purposes points will be assigned as follows:

Average Project: A project requiring 2 or more major design changes, or which has 4 or more minor problems. **(zero points)**

Above Average Project: A project requiring 1 major design change, or which has 3 minor problems. **(one point)**

Superior Project: A project requiring no major changes and which has 2 or less minor problems. **(two points)**

This criterion shall not apply to that portion of the project awarded a building allotment prior to October 1, 1999, except where the inclusion of the earlier allocated phase(s) would result in a higher score.

- 2. Provides street design which complements lot layout and building orientation:
 - a. Locates streets and arranges units to provide park/open space area that is aggregated into large meaningful area(s) that are conveniently located within the development. **(one point)**
 - b. Locates streets, design lots, and arranges units to enhance neighborhood security by arranging a minimum of 75 percent of the units so that entrances are visible from the public right of way or private circulation areas. **(one point)**
- 3. Provides a variety of setbacks which complements the overall site design.
 - a. A minimum five-foot front setback variation is provided between adjoining units for single-family dwellings, and four-foot front setback variation is provided between adjoining buildings for multi-family developments. **(one point)**

b. A minimum five-foot rear setback variation for single-family dwellings, and four-foot rear setback variation for multi-family dwellings is provided between adjoining units. **(one point)**

c. The proposed project provides at least a four foot variation in standard lot widths (excluding cul-de-sac lots) and each lot width represents at least ten percent of the total lots. For purposes of making the above determination, there must be at least three different standard lot widths and at least a four foot difference in the width of each standard lot. **(one point)**

d. Uses garage placement to provide lot variation. At least 25% of units have side-loading, detached, rear garages, or two car garages with tandem parking space to accommodate a third vehicle inside the garage. (one point, when 25% of the units have garage orientation as stated above; two points when 50% of the units have garage orientation as stated above) Multi-family developments may satisfy this criteria by locating garages, carports, and parking spaces at the side or rear of buildings at locations not visible from the public right-of-way. **(up to two points)**

4. Uses lot layout and design techniques that reduce noise. Such techniques where appropriate include increased setbacks, significant landscape buffer areas, sound insulation board in the building construction, placement of air conditioning units away from property lines and side yard areas to minimize noise impacts to adjoining dwellings, etc. **(up to two points)**

5. *For projects in the Downtown Area, third story building setback areas are articulated with design elements that provide visual interest, such as use of outdoor decks and balconies. (one point)*

6. *In the Downtown Area, the project addresses building to building variation in the façade and building space above through use of architectural details such as bay windows, decorative belt courses, moldings around windows, and planter boxes, etc., that span from one building to another. (one point)*

7. *Downtown area projects will receive one point for providing shared parking and/or rear parking lots. (one point)* (Ord. 1677 N.S. § 1 (part), 2004; Ord. 1575 N.S. §§ 19, 20, 2002; Ord. 1517 N.S. §§ 15 and 16, 2001; Ord. 1486 N.S. § 12, 2000; Ord. 1438 N.S. § 11, 1999; Ord. 1404 N.S. §§ 10, 11, 1998; Ord. 1346 N.S. § 13, 1997; Ord. 1228 N.S. § 10, 1995; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

18.78.300 Circulation efficiency

A. "Site and architectural design quality as indicated by the arrangement of the site for efficiency of circulation, on-site and off-site traffic safety and privacy.

..... **(15 points)"**

1. An efficient circulation system is one which accommodates various regular transportation modes (walking, biking, private automobile, and public transit) in a safe and unified manner. Future residential areas should incorporate design elements whenever possible to make these forms of transportation more convenient and safe for the users.

B. Standards and Criteria.

Note: Project scoring in this section shall be based on the overall project master plan and shall include improvements completed in previous phases of the same development.

1. Streets, access ways and parking are designed for safe and efficient circulation.

a. Local streets or access-ways interior to the project are designed to discourage fast traffic using curvilinear roads or traffic control devices. **(one point)**

b. Provides for the future extension of streets ~~or drive aisles~~ for proper access or circulation to adjacent properties by providing one or more stubs ***or other improvement internal to the project*** ~~for the future extension of streets~~. The future street extension(s) must be consistent with the General Plan or other adopted circulation plans **(up to two points)**

c. ***Provides for the future extension of drive aisles, or connections to shared access drives or adjacent parking lots.*** **(one point)**

d. Interior streets and/or drive aisles are designed to meet all city safety and parking standards and allow for a looping pattern of circulation. **(one point)**

e. Eliminates existing stub or substandard streets. Frontage improvements will not apply to this criteria unless the improvements occur along an arterial or the project completes full width street improvements along the project frontage. **(up to two points)**

f. Avoids short blocks between existing and/or proposed streets. A short block is considered to be less than two hundred fifty two feet from centerline to centerline of streets. Within a project, an entry aisle less than two hundred fifty two feet from the entry is acceptable. This criteria is not applicable where a driveway and/or drive aisles and curb cuts are used to provide access to the entire project site. **(one point)**

g. Provides a minimum 20-foot clear view back-out distance between enclosed garage space and drive aisle. **(one point)**

h. When possible, access to the project is provided from at least two separate streets. If access to separate streets is not possible, there must be a minimum of two hundred feet between access points to the project on the same street. **(one point)**

i. Provides appropriate landscape islands and entry monuments/gateway features. **(one point)**

j. Project provides circulation to facilitate emergency response and patrol as determined by the fire chief and police chief. Off-set intersections are avoided. The project shall include specific information to provide for turnarounds and secondary access proposal for phased projects. **(one point)**

k. Project provides public parking in the Downtown Area consistent with the Downtown Plan (i.e., at mid block areas between E. Second and E. Third and E. Third and E. Fourth Streets, on the east side of Depot Street, etc.) (up to two points)

2. Promotes the privacy of residential neighborhoods.

a. Internal project circulation is designed for use primarily by local residents. **(one point)**

b. Street layouts are designed to avoid the creation of undesirable situations such as double frontages, utility easements in rear or side yards of private property, or developable land locked property. **(one point)**

3. Provides for dedication and/or improvement of extensions to existing streets **and shared parking lots** outside of the project boundaries. The cost of the offered dedication and public improvements shall be equal to or greater than \$1100 per unit per point. Should the offered dedication and improvements be redundant to those made under 1f. of the Public Facilities (PF) section, points will be awarded here first and then any excess applied to the PF section. For example, if \$1500 per unit of improvements were recorded in this section and in PF, 1 point would be awarded here and \$400 per unit would be available to add to any non-redundant improvements made under the PF category, under Section B.3.a of the Schools category or under B.5 of the Livable Communities category.

Projects which offer to complete adjacent or nearby off-site public facility improvements which were committed to be installed by another project under a previously approved application will not receive points for the same commitment. **(Maximum of Up to two points)**

~~a. Provides for dedication of extensions to existing streets outside of the project boundaries. **(one point)**~~

~~b. Provides improvements for dedicated extensions of existing streets outside of the project boundaries. **(one point)**~~

~~c. Provides dedication and improvement of street extensions for existing streets outside of the project boundaries. **(two points)**~~

4. In R-3 and higher density mixed use projects, the proposed development minimizes conflicting back out movements by using single loading streets or drive aisles to access individual parking spaces. **(one point)**

5. In R-3 and higher density mixed use projects, interior parks and recreation amenities are located away from parking lots and circulation aisles. **(one point)**

6. Projects located in the Downtown Area may be awarded up to four points based on the following criteria:

a. The project provides mid block pedestrian connections through large buildings that provide access to public or private open space areas and plazas. For the criterion to apply, the pedestrian connection must be continuous and unrestricted. (one point)

b. The main project entries are oriented directly to the public streets to encourage connections through the existing network of sidewalks. (one point).

c. The project closes gaps in the pedestrian and bicycle network through replacement or extension of sidewalks, pathways or bike lanes beyond the project frontage. (one point)

d. The project provides bicycle parking with racks at convenient locations near building entrances and bus stops. (one point)

Note: For B4 3 above, emphasis will be placed on improvements for dedicated extensions of existing streets within one mile ~~beyond~~ **of** the project boundaries.

Proposed developments must be assigned a minimum passing score of seven points, **or a minimum of 5 points for Downtown Area projects** under this category in order to qualify for building allotments.

(Ord. 1575 N.S. § 21, 2002; Ord. 1517 N.S. § 17, 2001; Ord. 1486 N.S. §§ 13 & 14, 2000; Ord. 1438 N.S. § 12, 1999; Ord. 1346 N.S. § 14, 1997; Ord. 1228 N.S. § 11, 1995; Ord. 1179 N.S. § 14, 1994; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

18.78.310 Safety and Security

A. "Site and architectural design quality as indicated by the amount of private safety and security provided in the design of the individual structures.

..... **(10 points)"**

1. Residential structures should create the feeling of comfort and peace of mind by using design and materials that increase safety and security. The lighting, glazing, and positioning of non-private or semi-private areas, and access areas must facilitate their natural surveillance by residents and formal authorities.

B. Standards and Criteria.

1. Enhances safety and security as follows:

Provides fire escape ladders for upper floor bedrooms and one mounted fire extinguisher (rated 2A10BC) for up to the first 1,500 square feet of floor space, and one additional extinguisher for each additional 1,500 square feet of floor space or fraction thereof. **(1/2 point)**

b. Provides a first aid kit with a poison control document to be installed in the kitchen area of the home. **(1/2 point)**

c. Any other fire protection device or construction technique approved by the fire chief not already required according to the Uniform Fire Code. **(½ point).**

d. Provide outdoor lighting to meet all police department specifications. **(½ point)**

- e. Install illuminated address numbers for each unit and painted reflective curb numbers where possible. **(one point)**
- f. Any other intrusion protection device or construction technique approved by the police chief. **(1/2 point)**

Note: Application must stipulate that the reflective painted curb addresses will be maintained by a homeowners association. A Small or micro project will receive one point without the requirement for painted curb addresses.

- 2. Use of noncombustible siding materials in the following manner:
 - a. One point when noncombustible siding is used on at least 50 percent of the total units and on at least 50 percent of the siding of an individual unit, or;
 - b. Two points when noncombustible siding is used on at least 50 percent of the total units and comprises at least 75 percent of the siding of an individual unit, or;
 - c. Two points when noncombustible siding is used on at least 75 percent of the total units and comprises at least 50 percent of the siding of an individual unit.
- 3. Installation of an intrusion, fire alarm and heat detector system to be monitored by a central station, or to include auto dialer which meets city ordinance. For multi-family projects, points will be awarded for a fire alarm system without central monitoring, and NO intrusion system. **(two points; three points when the developer includes a one year monitoring contract with the home purchase and commits to deliver to the homeowner a city specific responsible listing card that the City Police Department can keep on file)**
- 4. Provides residential fire sprinkler system according to NFPA Chapter 13D specifications. **(three points)**
- 5. Neighborhood Emergency Preparedness Program administered through a homeowners association or central property management. **(one point)**
- 6. Developer to provide a hardwired carbon monoxide detection device or devices with battery backup. The installation of the devices are to be located per manufacturer's requirement with at least one detector per floor of the residence. **(one point)**
- 7. The developer shall include provisions in the Covenants, Conditions and Restrictions (CC&R's) of the Homeowner's Association which directs a Board representative to the City of Morgan Hill Police Department's Community Service Officer to enact a neighborhood watch program to be established as part of the first phase of the development. For rental projects, neighborhood watch programs shall be administered through a central property management company. **(one point, criterion does not apply to small or micro projects)**

NOTE: Proposed developments must be assigned a minimum passing score of five points under this category in order to qualify for building allotments.

18.78.320 Landscaping, screening and color.

A. "Site and architectural design quality as indicated by the amount and character of landscaping and screening and color of buildings.

..... **(10 points)"**

1. All trees, shrubs, ground cover, walls and fences, mounding, landscape furniture, paths, lighting, etc., should be compatible with the topography and other characteristics of the site, the character of adjacent quality landscaping, and the architectural features of adjacent structures. Efficiency in exterior design and landscaping is an important part of the character of a home. A gain can be made in terms of heating and cooling, noise abatement and pest control. The functions of plants should be the basis for their use in environmental design.

B. Standards and Criteria. **(Maximum ten points)**

(Note. Custom lots and custom lot developments may receive points in pertinent sections below where landscaping will be provided by the lot owner. This requires development agreement commitments being recorded against each such lot, including a statement that landscaping requirements must be in place or bonded prior to receiving City approval for occupancy.)

1. Uses landscaping techniques that enhance the quality of the site.

a. Applicant agrees to provide twenty-four inch box-size trees from a city approved list, with a minimum height of nine feet and a spread of three to four feet. The box-size trees will be provided within the development at a ratio of one box-size tree per ten trees provided with the landscape area to be installed by the developer. The one box size tree per ten trees calculation does not include street trees. **(one point)**

b. Provides sufficient planting around all necessary and appropriate group parking to achieve shading and visual screening as viewed from the public street. **(one point)**

c. Varied front yard landscaping plans are installed by the developer. For multi-family projects, this criterion shall apply to varied landscaping installed along the project frontage and for the landscaping installed in front of the buildings in the interior portions of the project. **(one point)**

d. Deciduous trees will be planted along the south facing side of homes or buildings to conserve energy by giving shade in the summer and maximum solar gain in the winter. **(one point)**

e. All street trees are twenty-four inch box trees from the city approved list. ~~(one tree per lot, two trees per corner lot = one point; two trees per lot, three trees per corner lot = two points)~~ **(one point)**

f. *Project provides or conforms to a Street Tree Master Plan that addresses tree selection, location of trees on each lot, proper tree spacing, and preservation of any existing trees (excluding orchard trees).* **(one point)**

2. Landscape planting and irrigation systems are designed to conserve water usage.
 - a. Drought tolerant grasses are used for lawn areas and no more than twenty-five percent of the landscape area is covered with lawn. The twenty-five percent lawn coverage calculation is exclusive of landscape area within parks. **(half point)**
 - b. Automatic irrigation systems utilize separate valves and circuits for trees; shrubs and ground covers; and lawn areas. Minimum of three separate valves required. A separate valve shall be provided for the following areas: front lawn, rear lawn, and for trees, shrubs and groundcover (combined) where viable. If trees, shrubs, and groundcover cannot be combined under 1 valve, a separate valve for trees shall be provided, resulting in a minimum of 4 separate valves required. Water conserving irrigation system is also used within the development, i.e., drip irrigation. **(half point)**
 - c. The landscape to be installed by the developer will include hardscape coverage such as decorative paving, wood decking, decorative stone and similar non-irrigated areas on at least fifteen percent of the landscape area. Pedestrian walkways across circulation aisles are not included in this item. **(half point)**
 - d. For at least 75% of all plant material, uses water conserving plants contained on the Selected Plant List, Appendix A of the City Water Conservation Landscape Guide. **(half point)**
 - e. Uses a separate water source (e.g., well, import or recycled water) to irrigate common area landscape areas and front yard areas that are maintained by a homeowners association. **(up to two points)**
 - f. Project connects to an existing water supply separate from the City's water system (e.g., an off-site irrigation well) for landscape irrigation. Applies to small and micro projects only. **(one point)**
3. Landscaping is installed on all areas visible from public and private rights-of-way. **(one point)**
4. *Project uses pervious pavement in all open parking lots, driveways and sidewalk areas to minimize drainage runoff. Project must be located in an area of rapid soil permeability for criterion to apply. (two points)*
5. *Downtown Area project uses building color to enhance architectural details and add to the visual interest of facades. (one point)*
(Ord. 1517 N.S. § 19, 2001; Ord. 1438 N.S. § 13, 1999; Ord. 1346 N.S. § 16, 1997; Ord. 1304 N.S. § 3, 1996; Ord. 1124 N.S. § 1 (part), 1993; Ord. 1034 N.S. § 1 (part), 1991)

18.78.330 Natural and environmental features.

A. "Site design quality in adapting the development to the setting, including the preservation of vegetation, trees, natural terrain, and other natural and environmental features.

..... **(10 points)"**

2. The proposed development should always adapt itself to the environment rather than vice-versa. The residences and supportive infrastructure shall be designed with nature in mind, by following the natural form of the land, preserving unique natural features and environmentally sensitive areas, arranging building sites around existing trees, and "blending in" the development to the surroundings.

3. A high quality project is one that uses what is available but also improves the total environment for the people who live within and nearby.

B. Standards and Criteria.

1. The proposed development utilizes environmental preservation techniques.

a. Foundation types are designed to minimize grading of the site and road alignment follows and maintains existing ground elevation to the greatest extent possible. Minimal grading is considered a fill or excavation of less than two feet in depth (three feet is acceptable for detention ponds). **(one point)**

b. Restricts the amount of runoff caused by impervious surfaces and the covering of land area suitable for percolation where applicable. **(one point)**

c. Each building site, preserves significant trees as defined in Section 12.32.020G of the Morgan Hill Municipal Code. ~~(the number of trees preserved must be proportional to project size and the number of existing trees)~~, but also allows enough flexibility in the final location of the final house design to fit the house to individual trees and detailed grade characteristics. **(one point)** *Note: Requires an arborist report to confirm that the tree(s) are significant and the condition or health of the tree(s) are suitable for preservation.* Scoring will be as follows:

_____ i. Project does NOT preserve significant trees or locate sites as outlined. ~~(minus one point)~~

_____ ii. Project has no such trees to preserve. **(zero points)**

_____ iii. Project has trees and/or terrain and DOES preserve them. **(up to two points)**

d. *Preserves the natural setting by locating park or common open space areas around significant trees. (one point)*

e. Considers, preserves or improves natural conditions on or adjacent to the site such as wildlife habitats, streams, those watercourses the Santa Clara Valley Water District recognizes as creeks (such as the Llagas, West Little Llagas, Fisher, and Coyote creeks) when appropriate and preserves riparian habitats in a natural state. Scoring will be as follows:

i. Project has such a site and does NOT preserve/improve it. **(minus one point)**

ii. Project has no such site. **(zero points)**

iii. Project has such a site and preserves and improves the natural conditions. **(up to two points)**

(Note: Only improvements made to an on-site area qualify for maximum points.)

2. The proposed development creates an environment that enhances the quality of life for the people who live in the development and the local neighborhood.

a. Uses design and layout techniques that give individuals maximum privacy within and outside the homes. Such techniques include the off set of windows between units, alternating outdoor patio areas and entrance and consideration of fence height in relation to grade changes. **(one point)**

b. Uses various site development practices to protect existing open space, hillsides and agricultural land with maximum points awarded for the protection of areas external to the project. **(up to two points)**

c. Arranges buildings, access-ways and locates parking areas and open space to minimize the use of sound walls next to the freeway, the railroad tracks, arterial or collector streets. **(two points)**

3. Project reduces construction waste sent to landfill sites by agreeing to implement at least two of the following recycling methods during construction: **(one point)**

- i. Dry wall is source separated and recycled;
- ii. wood waste is source separated for recycling or composting;
- iii. cardboard containers and boxes are source separated and recycled.

4. *At least 50% of the homes include solar electric panels for power generation providing at least 25% of the home electricity requirement. (one point)*

5. *Project incorporates the following Green Building Design Concepts:*

- i. *Uses certified Forest Stewardship Council (FSC) plywood (1/2 point);*
- ii. *Uses building insulation with minimum 25% recycled content (1/2 point)*
- iii. *Uses light exterior roof colors to reflect the sun's heat. (1/2 point)*
- iv. *Uses low to zero emission volatile organic compounds (VOC) and adhesives. (1/2 point).*

18.78.335 Livable Communities.

A. "The extent to which the proposed development exhibits overall project excellence and/or incorporates or otherwise embodies the concept of Livable Communities, such as proximity to transit, pedestrian orientation, efficiency of street system, mixed use, infill and maximization of use of existing infrastructure.

..... **(10 points)"**

B. Standards and Criteria

1. Proposed project phase(s) are subjectively judged by the Planning Commission to be superior with respect to overall project excellence. **(two points when awarded by a super majority of the voting members, or one point when awarded by a majority of the voting members of the Planning Commission)**

Note: The determination of project excellence will include input from the Building and Planning Divisions and the Public Works Department regarding the performance of the developer during any previous building permit processes. The timeliness and accuracy of the application submittal by the developer for any previous project will be an important consideration. Negative performance factors include more than two plan checks and/or projects which submit for building permits prior to ARB approval and prior to application for Final Map approval. No recommendation will be provided for developers who have not previously built in the City.

2. Provides low-maintenance on-site walkways and on-site bike paths throughout the development to maximize their use and promote safety. This criteria does not apply to city standard sidewalks, or where the provided path is adjacent to city standard sidewalks. **(one point)**

3. Encourages the use of public transportation in residential areas by constructing bus shelters, benches, reinforced street sections or bus pullout areas **and** these improvements are located on an approved or planned Valley Transportation Agency (VTA) transit route and accepted by the VTA for maintenance. A letter from the VTA shall be submitted confirming VTA's acceptance and maintenance of the proposed bus stop. For planned bus routes, the VTA letter shall provide confirmation of the future bus route extension. This criterion may apply to a bus stop constructed in the initial or previous phase that would serve subsequent phases of the same development. **(one point)**

4. Project is located within a quarter mile walking distance of the bus stop or other transit facility (the W. Main/Hale Park & Ride Facility, Caltrain Station or Route 68 regional transit line). **(two points; one point if the project is within ½ mile walking distance of the above transit facilities or a ¼ mile of other approved bus routes)**

5. Provides access to stores, services, schools, employment areas by constructing sidewalks where it does not currently exist within a quarter mile of the development. The cost of the sidewalk improvements shall be equal to or greater than \$1100 per unit per point. A value greater than \$1100 per unit can be credited to other categories (Schools, Public Facilities or Circulation) **(one point)**

6. Creates a continuous building frontage along the streetscape with buildings fronting on public streets, and applies the Valley Transportation Authority's standards for walking distance to amenities such as stores, services, schools and major employment centers.

(one point)

7. Project is designed as "vertical mixed use" with retail/commercial on the ground level and residential above. Larger mixed use projects that combine commercial and residential uses will receive maximum points in this category only to the extent that the residential and commercial uses are well integrated with each other, sufficient pedestrian connections between uses exist and parking fields are minimized from the public view **(up to two points)**

~~8. Provides external bicycle paths, bike lanes or bicycle routes improvements identified in the January 2001 City of Morgan Hill Bikeways Master Plan. Design of the bicycle improvements shall be in accordance with VTA's Bicycle Technical Guidelines. Maximum points will be awarded to projects that provide a continuous bike path or bicycle lane improvements between the project and destination area such as stores, services, schools and major employment centers. The cost of the bicycle improvements shall be equal to or greater than \$1100 per unit per point. A value greater than \$1100 per unit per point awarded can be credited to other categories (Schools, Public Facilities or Circulation) **(up to two points)**~~

8. Builds to planned densities. Downtown Area projects that build in the upper one third of the allowable density range will be awarded two points; projects that build to the upper 15 percent of the density range will be awarded three points.

9. Projects in the Downtown area are designed to fill in on existing utilities and require no new streets or infrastructure improvements. The existing infrastructure (sewer, water, storm drain and streets), must be of sufficient capacity to serve the development. (two points)

Article III. Procedures for Micro Project Competition

18.78.340 Eligible projects.

An eligible project is any type of residential development consisting of a maximum of six dwelling units. A project must also be located on a site which represents the ultimate or finite development potential of the property. In order to be considered as ultimate development, no further subdivision and/or residential development of the property would be possible pursuant to the general plan and this title. The only exception to this limitation would be the construction of a secondary dwelling unit on a single-family lot. (Ord. 1575 N.S. § 23, 2002; Ord. 1397 N.S. § 1, 1998; Ord. 1323 N.S. § 39, 1997; Ord. 1228 N.S. § 14, 1995; Ord. 1034 § 1 (part), 1991)

18.78.350 Filing periods.

Applications for development allotment evaluations shall be filed with the community development department ~~on October 1st~~ ***no later than 21 months prior to the fiscal year of the building allocation or an earlier date as established by the City Council.*** (Ord. 1391 N.S. § 1. 1998; Ord. 1228 N.S. § 15, 1995; Ord. 1034 § 1 (part), 1991)

18.78.360 Planning officers' review.

The planning officer shall review each application to determine whether or not the proposed development conforms to the city's general plan, Title 17 and this title's requirements. If the planning officer determines that a proposed development does not conform to the general plan, Title 17 and this title, the application shall be rejected. If the application is rejected, an applicant may appeal the planning officer's determination in the manner prescribed in Section 18.78.100(B) of this chapter. (Ord. 1034 § 1 (part), 1991)

18.78.370 Evaluation--Standards and criteria.

A. Projects will be evaluated according to the standards and criteria contained in Sections 18.78.200 through 18.78.330 of this chapter.

B. In order to be eligible for building allotments, a project must receive at least seven and a half points in Part 1 and one hundred fifty points in Part 2 of the allotment evaluation. Those that fail to receive a minimum passing score will have the opportunity to improve their designs and reapply during the next competition.

C. To provide a more streamlined process, each micro project application shall be evaluated by the planning officer. The Part 1 criteria shall be applied in the manner consistent with the provisions contained in Section 18.78.200 of this chapter. However, under Part 2 of the evaluation, each micro project shall be assigned the following minimum scores:

<u>Category</u>	<u>Minimum Score</u>
Schools	17 16
Open space	12
Orderly and contiguous	2
Public facilities	5
Parks and paths	5
Housing needs	8
Housing types	12
Quality of construction	8
Lot layout and orientation	9
Circulation efficiency	8
Safety and security	5
Landscaping	7
Natural and environmental	7
Livable Communities	5
Total	110 109

D. The planning officer shall examine each proposed development and shall rate each development by the assignment of no more than the maximum number of points allowable on each of the following categories: schools, open space, orderly and contiguous, public facilities, parks and paths, housing needs, quality of construction, safety and security and livable communities. The difference between the minimum score provided above, and the maximum score assigned in each of the aforementioned categories, shall determine a project's rating and eligibility for building allotments. In the event that two or more projects receive an equal number of points, the planning officer shall evaluate each project according to the remaining categories.

E. The planning commission shall review the planning officer's evaluation when the number of residential units in proposed developments exceeds the number of allotments authorized for the competition. (Ord. 1304 N.S. § 4, 1996; Ord. 1034 N.S. § 1 (part), 1991)

18.78.380 Award of allotments.

A. Proposed developments which have received a minimum of one hundred fifty points under Section 18.78.120 may be awarded an allotment for the following fiscal year. Where the number of residential units in proposed developments which have received the required number of points for a development allotment evaluation exceed the numerical limits established by the city council, the available allotments shall be awarded by the planning commission on the basis of the number of points received in Section 18.78.120 starting with the proposed developments receiving the most evaluation points and proceeding in order down the list until the numerical limit established by the council has been reached. Where allotments are made on the basis of a comparative standing on the list, any applicant who has received the required minimum number of points, but who is not high enough on the list to receive a development allotment, may appeal the matter of allotment evaluation to the city council.

B. Where the number of residential units in proposed developments which have received the required number of points for a development allotment evaluation are less than the numerical limits established by the city council, the available allotments shall be awarded by the planning officer in order of applications received. ~~An open filing period shall then be established and any unused allotments shall be awarded to projects in order of applications received, provided the new projects have received the required minimum score of seven and a half points under Part 1 and one hundred fifty points under Part 2 in separate evaluations.~~ *Any unused allocations shall be awarded by the Planning Commission to on going or next in line projects in other competition categories provided the unused allocation is awarded no later than 16 months prior to the fiscal year of the building allocation.* (Ord. 1391 N.S. § 2; Ord. 1228 N.S. § 16, 1995; Ord. 1034 N.S. § 1 (part), 1991)

18.78.390 Distribution of allotments.

The total allotments shall be distributed on the basis of points received and without regard to any particular geographical distribution. A final determination on the distribution of allotments shall be approved by the city council prior to the February competition. (Ord. 1228 N.S. § 17, 1995; Ord. 1034 N.S. § 1 (part), 1991)

18.78.400 Appeal procedure.

A. An applicant may appeal the planning officer's evaluation to the planning commission, or the planning commission's evaluation to the city council by filing a written notice of appeal with the community development department within fifteen days after the notice of evaluation has been mailed as described in Section 18.78.125(A).

B. In the event an appeal of the planning officer's evaluation is filed, the planning officer shall place the matter on the next available agenda for a regular planning commission meeting. The planning commission shall consider the appeal at such regular meeting at which time the commission will hear the applicant or his representative and such other persons as may be able to assist the commission in the determination of the matter on appeal. The commission may affirm or modify the allotment evaluation. The planning commission's evaluation may be appealed to the city council in the manner prescribed under Section 18.78.130 of this chapter. (Ord. 1034 N.S. § 1 (part), 1991)

18.78.410 Development allotment application.

A. An application for a development allotment shall be made to the community development department on a form provided by the city. Such application shall contain the following information and be accompanied by the documents:

1. Uniform Application.
 - a. Five sets of submittal plans,
 - b. Current title report,
 - c. Filing fees;
2. Site Development and Landscape Plans.
 - a. Scale, engineering scale not to exceed one inch equals forty feet on 24" x 36" sheet. Also provide a reduced size copy on 11" x 17" size sheet attached to the project narrative,
 - b. Small inset vicinity map to show the relationship of the proposed development to adjacent development, the surrounding area and the city,
 - c. A plan showing general lot layout, general lot sizes, typical lot dimensions, general notes and information; show storm drainage routes and lines, and areas for storm water retention,
 - d. Include street alignments showing coordination with city streets and proposed rights-of-way; the plan should also show proposed public works improvements,
 - e. Show proposed planting areas, park areas, and any other proposed uses,
 - f. Include the name, address and telephone number of the applicant, architect and/or engineer; also a graphic scale and north arrow;
3. Preliminary Architectural Plans.

- a. Scale: architectural drawings should be included at 11" x 17" size sheet(s) attached to project narrative,
 - b. Provide front elevations and range of possible square footage for all models within the project,
 - c. Indicate on the plans the type of housing provided, i.e., multifamily, BMR, senior, single-family, etc,
 - d. Provide illustrative building elevations showing all sides of one typical model and front elevations of other buildings within the proposed development;
4. Project Narrative Questionnaire: submit three copies of the completed project narrative questionnaire;
 5. Plan Preparation Guidelines.
 - a. All plans shall be drawn on uniform sheets no greater than twenty-four inches by thirty-six inches, or as approved by the community development director prior to submittal,
 - b. All plans shall be stapled together along the left margin,
 - c. All plans shall be folded into one-eighth sections or folded in such a manner that the size does not exceed nine inches by twelve inches,
 - d. All plans shall be clear, legible and accurately scaled.
 - B. Each application shall be accompanied by a reasonable fee set by the city council as prescribed in Section 18.78.090(B) of this chapter. (Ord. 1391 N.S. § 3, 1998; Ord. 1034 N.S. § 1 (part), 1991)

Revised June 29, 2005

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL
AND SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – JULY 6, 2005**

CALL TO ORDER

Mayor/Chairman Kennedy called the special meeting to order at 6:01 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Grzan, Sellers, and Mayor/Chairman Kennedy
Late: Mayor Pro Tempore/Vice-chair Tate (arrived in closed session at 6:05 p.m.)

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

City Council and Redevelopment Agency Action

CLOSED SESSIONS:

Interim City Attorney/Agency Counsel Siegel announced the below listed closed session items:

1.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority:	Pursuant to Government Code 54956.9(a)
Case Name:	City of Morgan Hill v. Hernandez
Case Number:	Santa Clara County Superior Court, Case No. 1-04-CV-020063
Attendees:	City Manager, Interim City Attorney, and Attorney Gale Connor

2.

PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Authority	Government Code 54957
Public Employee Performance Evaluation:	City Manager
Attendees:	City Council, City Manager

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:04 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:00 p.m.

CLOSED SESSION ANNOUNCEMENT

Interim City Attorney/Agency Counsel Siegel announced that no reportable action was taken in closed session.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Tom Kinoshita led the Pledge of Allegiance.

RECOGNITIONS

Mayor Kennedy presented retiring Morgan Hill Unified School District Superintendent Dr. Carolyn McKennan with a Certificate of Appreciation; acknowledging and thanking her for her leadership and years of educational service to the community.

PRESENTATIONS

Kurt Evans, Government Affairs Manager for the Santa Clara Valley Transportation Authority (VTA), provided the City Council with an update on the proposed California High Speed Rail Project. He stated that the California High Speed Rail Authority has been engaged in developing a high speed rail system that would link southern California with northern California. He indicated that the intent of the system is to provide for a transit alternative for the heavily traveled highways and air traffic corridors running from Los Angeles to the Bay Area. He stated that high speed rail is seen as an alternative to relieving congestion in this corridor. He informed the Council that the Authority has been working on high speed rail for a number of years, and that although they have been making progress, there are a number of outstanding issues that they have to resolve. One of these issues is how the high speed rail trains would enter the bay area. He indicated that in January 2004, the Authority released a draft program level environmental document for public comment. In the document, the Authority recommended a southern gateway alignment on how the trains would come from the central valley into the bay area. Under this alignment, the trains would come from Los Angeles, through the central valley via Merced County, over Pacheco Pass into Gilroy and then to San Jose. At San Jose, the trains would split in two ways with half the trains going through the Caltrain corridor and up the peninsula into San Francisco, and the other half running up to the east bay, into Oakland.

Mr. Evans informed the Council that the Authority recommended the southern gateway alignment for a number of reasons. One of the reasons is that the alignment would provide more frequent service to the three major population centers in the bay area (San Jose, San Francisco and Oakland). It is believed that such an alignment would provide the highest ridership, generate more revenue for the system, and would

be more efficient to operate, resulting in lower operating costs. After a nine-month period, the Authority took its draft program level environmental document throughout the State and held a number of public sessions in various locations and received a lot of comments. In September 2004 the Authority decided that, in order to protect itself from a potential lawsuit, it would reopen the issue on how the trains entered the bay area. He informed the Council that the Authority decided to reexamine a series of alignments and identified a broad corridor for their study efforts ranging from Pacheco Pass in the south to an Altamont Pass to the north. He stated that the Authority is now engaged in a two-year effort to look at the various ways you can enter the Bay Area in the study corridor, focusing on Pacheco Pass, Altamont Pass, and/or other options. He informed the Council that this study provides another opportunity for interested parties to comment on a preferred alignment for high speed rail into the bay area. In response to this, VTA joined the Silicon Valley Leadership Group, advocates for Coe Park, San Jose Silicon Valley Chamber of Commerce, and the City of San Jose to form the Silicon Valley High Speed Rail Coalition. He indicated that the purpose of the Coalition is to advocate for the Pacheco Pass alignment.

Laura Stuchinsky, Director of Transportation and Land Use, Silicon Valley Leadership Group, provided the Council with a diagram depicting the alignments that would be studied by the Authority. She indicated that the most northern proposed alignment would come from the central valley to the Altamont Pass into Union City. In order to reach San Francisco, Oakland and San Jose, the rail trains would need to be split into three at this point. The other major route being considered is Pacheco Pass where high speed rail would hit the Caltrain corridor in the Gilroy area and come up the Caltrain corridor into San Jose and then split at this point to go into Oakland and San Francisco. It is felt that it is important that the High Speed Rail Alliance, through the High Speed Rail Authority, chose the Pacheco Pass alignment in order to meet the needs of California, and to meet the objectives of the Authority in order to maximize service to the people of California; maintaining the highest efficiency in services. It is also felt that this alternative would meet the needs of Caltrain; as it would allow the rail system to have a grade separation and electrification, two of the long term goals of Caltrain. It also allows an increase in commuter rail service in this corridor.

Ms. Stuchinsky distributed copies of the principles of why VTA believes Pacheco Pass is the better route to choose and the policy reasons (e.g., to maximize the number of trains serving the region's three largest cities; maximizing the speed, frequency, and ridership of the high speed rail service; and minimizing adverse environmental impacts following an existing transportation corridor rather than creating a new transportation corridor, not passing through or under Henry Coe Park). VTA believes that the route can be one of the other routes or other variations that the Authority will study that minimizes the impacts to the environment and maximizes services. She informed the Council that there are 22 members in the Coalition including Congressman Mike Honda and Congresswoman Zoe Lofgren; Senators Elaine Alquist and Abel Maldonado, and Assembly Members Rebecca Cohn, Joe Coto and Simone Salinas, as well as other individuals and organizations. They are reaching out to other organizations and elected officials to join the coalition. She acknowledged that the City of Morgan Hill has previously adopted a resolution in support of a southern gateway high speed rail route. She said that it is her understanding that there will be a number of organizations and individuals opposed to a Diablo Pass route. She said that for practical reasons, it is believed that Pacheco Pass is the best

alignment to pursue. Should the Council wish to support this effort, she requested that it sign on to be a part of the coalition and communicate the City's position to the High Speed Rail Authority.

Mayor Kennedy indicated that he sees a couple of possible issues with the misstatements, particularly along the Caltrain right of way as opposed to Highway 101. He inquired as to the best way to get this input into the process should the Council wish to have input on the specific points that might be different from what has been presented.

Mr. Evans said that specific points can be communicated to the Coalition for its consideration. The Coalition would take a look at the issues raised and whether they would fit into the principles articulated and whether the principles could be adjusted to accommodate these interests.

Council Member Sellers felt that it made sense to join the Coalition and that he will ask the Council to do so later. He said that it sounds as though the Coalition has to undertake a significant effort and inquired whether there was a similar organization in the east bay or the Contra Costa County area that is forming in order to lobby in their direction.

Mr. Evans said that there is a group of organizations advocating for the Altamont Pass alignment primarily led by the Train Riders Association of California. He stated that their main argument is that they are trying to use high speed rail to solve other problems in the region. They are looking at a high speed rail system to co-exist with their commuter and city rail system. The coalition believes that this would defeat the purpose of the high speed rail system of providing a competitive alternative for travel between northern and southern California. Also, the Altamont Pass alternative would not readily serve Silicon Valley as a Pacheco Pass alignment would. It would also depend on the construction of a new bridge across the bay in order to serve San Francisco. The Coalition believes that it needs to have its voice heard in this process, particularly when there are other organizations advocating for an alignment that it does not believe serves the interests of Silicon Valley and the State as a whole in terms of how the system should develop.

Council Member Carr inquired whether a southern gateway alignment would use the existing Caltrain tracks.

Ms. Stuchinsky clarified that the southern gateway alignment would use the same corridor, but would build separate tracks. She indicated that the baby bullet would be able to use the high speed rail tracks and that the regular commute trains would stay on the original tracks. However, in both cases, the tracks would be elevated or depressed and would no longer be at grade level. This would avoid the conflict that is seen with street traffic trying to cross train tracks.

Council Member Carr noted that the Coalition's list of principles includes a bullet point addressing adverse environmental impacts. He felt that having a grade separated crossing would be something that South County would be interested in. He stated that identifying this as one of the principles would be helpful.

Mr. Evans felt that Council Member Carr's recommendation would be consistent with who the Coalition is with regards to Caltrain. He stated that the Pacheco Pass alignment is very compatible in terms of meeting a number of long range goals identified, including a grade separation corridor. He informed the Council that the Caltrain Joint Powers Board is also looking at high speed rail to make other improvements in the corridor, including possible electrification relieving some of the choke points along the corridor and providing additional capacity at various locations. He felt that Council Member Carr's suggestion is something that is intended by the Coalition in terms of its guiding principals.

Mayor Kennedy indicated that the Council would be considering joining the Coalition under a future agenda action item.

CITY COUNCIL REPORT

Mayor Kennedy indicated that he is an ex-officio member of the Chamber of Commerce. Today, he had the opportunity to attend a Chamber sponsored tour of the Kirby Canyon Waste Management Facility. He stated that he was interested in participating in the tour because he has heard comments and has seen the unsightly white stripe visible from Morgan Hill along the side of a hill in Kirby Canyon. He was told that this would be a temporary membrane. He did not know how long the membrane would remain and be visible, but that he agreed to have a follow up with the District Manager to discuss the visual impacts of Kirby Canyon on Morgan Hill; including the actions that can be taken to address the concerns raised by many members of the community.

Mayor Kennedy stated that he serves as an alternate to the VTA Board of Directors and is also an alternate member to the VTA Policy Advisory Committee. He indicated that recently, there has been a lot of discussion, and articles appearing in the Silicon Valley Business Journal, relating to the Bart San Jose stop. The discussions/articles relate to the services to be provided under Measure A, the ½ cent sales tax approved by the voters for a series of transit projects such as: Bart expansion, expanded Caltrain service to north and south county, funding for operational support of buses and light rail, Caltrain electrification, etc. He stated that with the downturn of the economy and the dot com bubble burst, it became clear that not all projects can be funded with the current ½ cent sales tax. He said that there has been a lot of discussion about what projects will move forward and whether Bart remains the number 1 priority, whether there should be a phased Bart project, whether some projects should be eliminated, and/or which projects should be built first. He indicated that the City of Morgan Hill had expressed its comments in letters to Mayor Gonzalez and VTA. In the letter to VTA, it was suggested that Bart not move forward at the cost of loss of projects that would benefit South County (e.g., reverse Caltrain commute, expanded Caltrain and bus services). The City's letter specifically stated that should there be a Bart route through San Jose, Milpitas and Santa Clara that is not the most cost effective route, but benefits these cities, the jurisdictions that benefit from Bart should pay for the additional costs of this benefit. He clarified that he was addressing the undergrounding of Bart from Alum Rock to Santa Clara. He indicated that this was an issue addressed in a Silicon Valley Business Journal article. The article suggests a private/public partnership on one of the train stations that could help reduce the cost for the undergrounding of Bart through downtown San Jose as an alternative. He stated that Mayor Gonzalez recently put forth an initiative of suggested projects and re-prioritization, offering to eliminate some of the Bart stations in downtown San Jose, and changing one of the light rail service lines to a bus rapid

transit line. He views this as a step in the right direction and places a proposal on the table that moves away from the impasse that has been occurring. He indicated that he supported Mayor Gonzalez in his initiative measure, and that he would continue to work with the VTA Board and staff, as well as Council Member Sellers who serves on the VTA Policy Advisory Committee, in order to protect the City's interest in South County (e.g., reverse Caltrain commute, expanded bus service, people mover project from the Caltrain station to the airport, etc.). He stated, as an Alternate VTA Board Member this year and as a full board member next year, he would continue to advocate for these issues as well as transit services that benefit South County.

CITY COUNCIL SUBCOMMITTEE REPORT

None

CITY MANAGER REPORT

City Manager Tewes indicated that typically, in the months of June and July, he reports to the Council on the number of days the State legislature and the Governor have missed the constitutional deadline for adopting a State budget. He stated that this is day 21 that a State budget has not been adopted. He noted that there is an agreement between the Governor and the legislative leaders that will lead to the adoption and signing of a State budget soon. He informed the Council that the League of California Cities advises as to what is contained in this agreement and how it impacts cities' budgets. 1) The agreement provides that the State will fully fund Proposition 42, a measure approved by voters in California that requires that the sales tax on gasoline be dedicated to transportation purposes. He stated that in recent years, this sales tax has been used to balance the State budget. The proposed deal would fully fund Proposition 42's obligations for transportation. For Morgan Hill, this means approximately \$150,000 annually for street repair and rehabilitation. 2) He noted that in a prior budget agreement, cities and counties gave up some revenues for a two year period and that there was a temporary borrowing by the State of certain revenues that otherwise are due to cities and counties from the Motor Vehicle License Fee. The State agreed to repay \$1.2 billion next fiscal year. He indicated that the City's forecast has shown this revenue coming in next fiscal year. However, this deal advances the fees by one year. Therefore, the City will be repaid this year approximately \$630,000 that would be added to the General Fund. He indicated that this is a cash flow issue as staff has counted on these funds coming in next fiscal year, but they will be coming in this budget year instead. He indicated that staff will be returning to the Council with the appropriate amendments to the City's budget once the State budget is adopted. He said that the City is operating at a \$1.2 million deficit for the current year, as adopted by the Council a couple of weeks ago, but will be at approximately a \$600,000 deficit instead. However, staff's forecast would be that the operating deficit for the subsequent year would be correspondingly higher.

CITY ATTORNEY REPORT

Interim City Attorney Siegel stated that he did not have a report to present this evening.

PUBLIC COMMENT

Mayor/Chairman Kennedy opened the floor to public comments for items not appearing on this evening's agenda. No comments were offered.

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council unanimously (5-0) **Approved** Consent Calendar Items 1-10 as follows:*

1. **AWARD OF PROFESSIONAL SERVICES CONTRACT TO PREPARE CIVIL/URBAN DESIGN DOCUMENTS FOR DEPOT STREET RECONSTRUCTION PROJECT**
***Action:** **Authorized** the City Manager to Execute a Consultant Agreement with BKF Engineers in the Amount of \$308,945 for the Preparation of Civil and Urban Design Documents for the Depot Street Reconstruction Project, Subject to Review and Approval by the City Attorney and Caltrans Pre-Award Audit Process.*
2. **PUBLIC WORKS MAINTENANCE AGREEMENT FOR WELL SITE EMERGENCY REPAIRS, MAINTENANCE AND PARTS FOR FISCAL YEAR 2005-2007**
***Action:** 1) **Approved** New Maintenance Agreement for Emergency Repairs, Maintenance, and Parts for Well Sites; and 2) **Authorized** the City Manager to Execute the Agreement on Behalf of the City.*
3. **AMEND PROFESSIONAL SERVICES CONTRACT FOR THE PREPARATION OF AN ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR BUTTERFIELD BOULEVARD**
***Action:** 1) **Approved** Additional Scope of Work for David J. Powers and Associates in the Amount of \$5,000; and 2) **Authorized** the City Manager to Execute an Amendment to the Existing Professional Services Agreement for Preparation of an Addendum to the 1992 Environmental Impact Report (SEIR) for the Purposes of Extending Butterfield Boulevard South from Tennant Avenue to Watsonville Road, Subject to Review and Approval by the City Attorney.*
4. **AWARD OF CONTRACT TO PROVIDE PUBLIC WORKS INSPECTIONS ON AN AS-NEEDED BASIS**
***Action:** 1) **Approved** a Professional Services Contract with Testing Engineers, Inc. (TEI) to Provide Public Works Inspection Services on an As-Needed Basis at a Not-to-Exceed Cost of \$90,000 for Fiscal Year 2005-2006; and 2) **Authorized** the City Manager to Execute the Contract, Subject to Review and Approval by the City Attorney.*
5. **APPROVAL OF SUBDIVISION IMPROVEMENT AGREEMENT WITH EUROCRAFT DEVELOPMENT, INC. (APN 773-08-012)**
***Action:** 1) **Approved** Subdivision Agreement and Improvement Plans; 2) **Authorized** the City Manager to Sign the Subdivision Improvement Agreement on Behalf of the City; and 3)*

***Authorized** the Recordation of the Map and the Subdivision Improvement Agreement Following Recordation of the Development Improvement Agreement.*

6. **RESPONSE TO 2004-2005 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT “TASERS-TRAINING AND TRACKING”**

***Action: Directed** Staff to Provide the 2005-2005 Santa Clara County Civil Grand Jury with the responses contained in the staff report.*

7. **ADOPT ORDINANCE NO. 1727, NEW SERIES**

Action: Waived** the Reading, and **Adopted** Ordinance No. 1727, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1685, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-97-22: SPRING – MALONE/SPEER TO ALLOW FOR A ONE YEAR EXTENSION OF TIME FOR A SINGLE CUSTOM LOT BUILDING ALLOTMENT RECEIVED IN THE 1998-99 RDCS COMPETITION. (APN 767-53-012) (DAA-98-11: SPRING-MALONE/SPEER).

8. **ADOPT ORDINANCE NO. 1728, NEW SERIES**

Action: Waived** the Reading, and **Adopted** Ordinance No. 1728, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MC-04-25: COCHRANE – LUPINE (APN 728-34-022) (DA-05-02: COCHRANE - LUPINE).

9. **ADOPT ORDINANCE NO. 1729, NEW SERIES**

Action: Waived** the Reading, and **Adopted** Ordinance No. 1729, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1718, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-17: HILL - GERA (APN 728-07-47, 728-07-48, 728-07-49, 728-07-50, 728-07-51, 728-08-014, 728-08-015) (DA-04-04: HILL - GERA).

10. **ADOPT ORDINANCE NO. 1730, NEW SERIES**

Action: Waived** the Reading, and **Adopted** Ordinance No. 1730, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE PRECISE DEVELOPMENT PLAN APPROVED UNDER ORDINANCE NO. 1546, NEW SERIES FOR THE TENNANT STATION SHOPPING CENTER LOCATED IN THE PLANNED UNIT DEVELOPMENT (PUD) DISTRICT ON THE SOUTHEAST CORNER

OF THE INTERSECTION OF MONTEREY ROAD AND TENNANT AVENUE. (APN's 817-06-039, 040 & 41) (ZAA-01-20: Tennant Safeway).

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Sellers and seconded by Agency Member Carr, the Agency Board unanimously (5-0) **Approved** Consent Calendar Items 11 and 12 as follows:*

11. AGREEMENT FOR OUTSIDE LEGAL COUNSEL (RICHARDS, WATSON & GERSHON)

Action: ***Authorized** the Executive Director to Execute a Consultant Agreement for Legal Services in Fiscal Year 2005-2006 with Richards, Watson & Gershon in the Amount of \$75,000, Subject to Review and Approval by Agency Counsel.*

12. CONSULTANT AGREEMENT WITH BENCHMARK

Action: ***Authorized** the Executive Director to Negotiate and Execute a Consultant Services Agreement with Benchmark for Fiscal Year 2005-2006 to Provide Project Management Services and Lead Testing for Housing Improvement Programs in an Amount not to exceed \$402,500; Subject to Review and Approval by Agency Counsel.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Mayor Pro Tempore/Vice-chairman Tate requested that item 14 be removed from the Consent Calendar.

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Carr, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 13 as follows:*

13. REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF JUNE 15, 2005

Action: ***Approved** the Minutes as Written.*

Action: *On a motion by Council/Agency Member Sellers and seconded by Council/Agency Member Carr, the City Council/Agency Board, on a 4-0-1 vote with Mayor Pro Tempore/Vice-chairman Tate abstaining, **Approved** Consent Calendar Item 14 as follows:*

14. SPECIAL AND REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING MINUTES OF JUNE 22, 2005

Action: Approved *the Minutes as Written.*

City Council Action

PUBLIC HEARINGS:

15. FOX HOLLOW-MURPHY SPRINGS ASSESSMENT DISTRICT PUBLIC HEARING AND ADOPTION OF RESOLUTIONS CONFIRMING FISCAL YEAR 2005-2006 ASSESSMENT INCREASES PURSUANT TO PROPOSITION 218 – *Resolution Nos. 5915, 5916, 5917, 5918, and 5919*

Mayor Kennedy indicated that he resides within 500 feet of this agenda item. Therefore, he would be stepping down from the dais for this item. He excused himself and left the Council Chambers.

Mayor Pro Tempore Tate identified the procedures to be undertaken for this item, indicating that staff would present the staff report; the public hearing would be opened/closed. Following closure of the public hearing, the Council will move forward with the remaining agenda items to allow the votes submitted to be counted. The Council will reconvene to this item following tabulation of the ballots.

Deputy Director of Public Works Struve presented the staff report, informing the Council that on May 4, the Council approved a resolution setting June 15, 2005 as a public meeting and setting tonight's public hearing date. The May 4 resolution also initiated a Proposition 218 ballot proceeding. He addressed the notification/meeting process; indicating that 706 out of 755 property owners were notified that an annual assessment increase is being proposed, that an annual inflator is to be added, and/or both, to their assessment. He indicated that three community meetings with property owners were held on June 2, 7, and 13 in order to answer questions. Staff also responded to e-mails and phone call inquiries. The Council conducted the "be heard" meeting on June 15. He informed the Council that tonight's meeting is for the purpose of accepting public comments, closing the public hearing, and tabulating the ballots received. He indicated that approximately 323 ballots were returned to the City, a good representation of the ballots sent out. Following the closure of the public hearing, the Council is being asked to adopt the required resolutions per the ballot tabulation in the sub areas where there is not a majority protest. In the event that the sub area(s) where an increase is proposed is not approved, the Council will need to direct staff to prepare and return with a resolution(s). Council adoption of the resolution(s) would be required to abandon the increase in assessment. He informed the Council that in attendance this evening to answer any questions the Council may have is the City's consultant who advises staff on the Landscaping and Lighting Act of 1972 and the contractor who maintains the sites.

City Clerk Torrez certified that notice was duly given of this public hearing, and that ballots were sent to approximately 706 affected property owners.

Mayor Pro Tempore Tate opened the public hearing. No comments being offered, the public hearing was closed.

Action: *By consensus, the Council temporarily **suspended** further discussion/action on this item until such time that the City Clerk concludes counting/tabulating the assessment ballot results in support or opposition to the proposed assessment.*

Mayor Kennedy returned to the Dais.

16. APPLICATION ZA-05-04: TEXT AMENDMENT – RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDCS) STANDARDS AND CRITERIA – Ordinance No. 1731, New Series

Planning Manager Rowe presented the staff report, indicating that Measure C requires that the Planning Commission conduct the review of the evaluation criteria following each competition to determine whether changes need to be made to the scoring criteria for subsequent competitions. He informed the Council that it was realized going into the competition this past year that the standards and criteria were not written in a way that was helpful for the downtown; specifically for small vertical use. He stated that the Measure C subcommittee, consisting of three Planning Commissioners, reviewed the scoring criteria for the downtown, and is recommending changes that are geared toward higher density in the downtown and vertical mixed use development. It is the Subcommittee's hope that the recommended changes will result in projects receiving qualifying and competitive scores, allowing the City to award the building allocations that the Council has authorized and set aside for a competition to be held this fall.

Mr. Rowe indicated that on June 8, 2005, the Council held a joint workshop with the Planning Commission to review the proposed changes. The Council directed further changes: 1) to amend the ordinance to exempt downtown projects from having to include below market rate (BMR) units as small unit sizes tend to be affordable versus market rate units built outside the downtown in lower density development (Housing Needs category). 2) Incorporation of up to 25% market rate units within an affordable project. This would provide for a better economic diversity within projects. He indicated that the central core area is established by Measure C and would need to go back to the voters to expand the core. He stated that it was not feasible for the Measure C subcommittee to come up with an alternative. Therefore, the Measure C subcommittee did not recommend changing the Orderly & Contiguous category. He informed the Council that there will be some changes that will be coming before the Council later this month relating to parking standards and changes to zoning that will create additional incentives for new housing to be built within the downtown target area. He stated that the Planning Commission reviewed the final text amendments on June 28, 2005 and voted 4-1 to recommend Council approval of the changes. He clarified that the Measure C subcommittee consisted of three Planning Commissioners: Ralph Lyle, Joe Mueller, and Robert Escobar. Others serving on the Subcommittee include: Bill McClintock; Leslie Miles, representing the downtown association; John Marquez, local builder; and Bonnie Tognazinni with the Morgan Hill Unified School District.

Council Member Carr referred to the Schools Category, item 4, community room for after school programs, an added item. He stated that the City-School Liaison Committee has been discussing ways the City can be assisting the School District. He did not know whether there was discussion about trying to create a fund to provide funding for after school programs.

Mr. Rowe indicated that Ms. Tognazinni and the Measure C subcommittee discussed funding for after school programs. Concerns were raised that there would be a legal nexus between the fee and the residential project. He stated that there was some uncertainty whether an after school program commitment should be included. Ms. Tognazinni suggested, as an alternative, to provide a facility and extend after school programs in a neighborhood. This was the alternative criteria derived in response to the Boards request.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Council Member Sellers commended and thanked the individuals involved in the process. He felt strongly that affordable housing in the downtown is an important issue because the housing the Council is trying to achieve is appropriate to be placed in the downtown based on the nature of the type of affordable housing to be built. He acknowledged that Morgan Hill does not have this type of housing product in any substantive numbers. He also felt that it was important to recognize that to the extent the City has placed housing in the downtown; the few units constructed in the last 10-15 years have all been affordable. He felt that it was important to achieve a balance in the downtown. In order to be fair, equitable, and economically wise in the proceedings, he felt that it was important to achieve this balance. He recommended that the Council consider this as it proceeds.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Waived** the reading in full of Ordinance No. 1731, New Series.*

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council **Introduced** Ordinance No. 1731, New Series by title only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING ARTICLES II AND III, THE STANDARDS AND CRITERIA AND PROCEDURES OF THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM AS SET FORTH IN CHAPTER 18.78 OF THE MORGAN HILL MUNICIPAL CODE**, by the following roll call vote: **AYES:** Carr, Grzan, Kennedy, Sellers, Tate; **NOES:** None; **ABSTAIN:** None; **ABSENT:** None.*

17. SOLID WASTE PROGRAM CHANGES

Programs Manager Eulo presented the staff report, indicating that staff is recommending Council approval of a series of changes that are designed to complete the City's recycling program. He summarized the proposed changes as follows: 1) Food waste collection to be added to yard trimmings program, including contaminated paper; 2) yard waste to be collected every week; 3) the addition of plastic bags, scrap metal and household batteries to the recycling program; 4) each resident to be provided with a 48-gallon garbage cart free of charge; 5) change the standard recycling container offering to two 64-gallon carts instead of the one cart and one blue bin; 6) individuals can request 32 gallon carts if they prefer; 7) 64 gallon yard trimming carts to be offered; 8) it is to be made clear that cardboard does not need to be tied but does need to be neat and orderly; 9) residential routes will

commence 30 minutes later; 10) South Valley will pay for all extra bins to be provided; 11) Jackson Oaks will no longer be subject to hillside rate charges; 12) converting the City's occasional recycle day events into an enhanced coupon system; 13) eliminating the freon charges for items brought to the transfer station with vouchers; and 13) South Valley to provide sweeping services to all city-owned parking lots. In exchange, the compensation proposed to be provided to South Valley is a 7-year franchise extension. The franchise fee is to be lowered from 16% to 15.5%. He clarified that there would be no impact to the general fund based on a lower franchise fee as it would remain constant at 10%. There is a slight rate increase associated with the changes. He informed the Council that there is a new law in place that requires South Valley to retrofit diesel trucks to provide clean air. The City has agreed to provide South Valley \$20,000 to retrofit the trucks annually out of the environmental programs fund.

Mr. Eulo informed the Council that based on his discussion with Council Member Grzan; he has an amendment to the franchise agreement to suggest. He referred to page 7, 6th line from the bottom regarding the new yard trimmings self-haul program. He noted that the franchise agreement states that the company will send a representative to a home to verify the existence of excess organic material. He said that Council Member Grzan agrees that South Valley can send out a representative to a home to verify that excess organic materials exist, but that it may be better to use the word "may" instead of the word "will" so that the City does not compel South Valley to send a representative to a residence.

In response to Mayor Pro Tempore Tate's question, Mr. Eulo indicated that food waste would be combined with yard trimmings and that an individual can eliminate the rate being paid on a totter.

Council Member Sellers noted that proposed amendments include weekly pickup of organic and other materials being collected every week.

Mr. Eulo clarified that the recycling program would be conducted bi-weekly and that this is not proposed to change. He stated that every time the City polls citizens, citizens are asked whether they would like to have recycling collected weekly and how much citizens are willing to pay for weekly collection. He informed the Council that approximately 70% of the citizens are satisfied with the bi-weekly collections.

Council Member Sellers requested that it be clarified that the City will not be changing recycling collections, but that the City is providing one more bin that can be collected weekly.

Mr. Eulo noted that it is staff's recommendation that the Council authorize the City Manager to execute the franchise agreement, subject to review and approval of the City Attorney. He said that it should be noted that there will also be special counsel from Richards, Watson and Gershon, reviewing the franchise agreement.

Council Member Sellers stated that now that the City will be providing the garbage cans, individuals will have garbage cans that they want to dispose of. He felt that it was important for the City to let citizens know that there is an opportunity to discard battered, old garbage cans and that there is a process to do so.

Mr. Eulo informed the Council that South Valley has offered to implement a “sticker system” where they will provide residents with orange stickers that would identify which garbage cans are to be recycled. He recommended that a “drop off” event be held so that individuals who are willing to self-haul can take old garbage cans to the transfer station.

Mayor Pro Tempore Tate wanted the public to know that plastic bags can now be recycled and that they can be placed in the recycle bins. Yard trimmings can be placed in the yard trimming bins, not in plastic bags.

Council Member Grzan stated that staff has done an outstanding job on this agreement. He said that the agreement includes recycling enhancements in order to meet State requirements, new containers, added pickups, etc. He stated that if residents have a large amount of yard trimmings, they can contact South Valley. South Valley will inspect the cuttings, providing a voucher. With the voucher, a citizen can take the yard trimmings to the transfer station at no cost to citizens. He stated his support of the agreement as it contains benefits for the community and enhancements for the contractor.

Mr. Eulo introduced South Valley representatives in attendance this evening, indicating that they would answer any questions the Council may have.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Mayor Pro Tempore Tate indicated that the City would be receiving enhanced benefits for 70 cents a month and stated his support of the franchise agreement.

Action: *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Authorized** the City Manager to Execute the Franchise Agreement Subject to the Review and Approval of the City Attorney.*

City Council and Redevelopment Agency Action

PUBLIC HEARINGS:

18. DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) WITH EL TORO BREWING

Director of Business Assistance and Housing Toy presented the staff report, indicating that in January 2004, the Redevelopment Agency selected El Toro Brewing as the developer for a restaurant-brew pub at the former police station located at the corner of Main Avenue and Monterey Road. He noted that the Agency initially issued an RFP for the reuse of the building in the fall of 2003. At that time, the City received two responses to the RFP for a restaurant brew pub. Of the two responses, both had a value of the building at zero dollars due to the cost of improvements. At that time, the Agency Board requested that the proposers return with revised submittals that would include a value for the building. He noted that El Toro Brewing Company returned with a higher value of the building at \$650,000. He stated that

it is the Agency's objective to develop a restaurant-brew pub as a catalyst gateway project for the downtown in the former police department building and not to maximize the sale price of the building.

Mr. Toy indicated that the Agency Board has approved two extensions to the Exclusive Right To Negotiate (ERN) agreement. In January 2005, the Agency Board approved the second of two amendments to the ERN, extending the agreement to June 24, 2005 with the provision for administrative extensions. He stated that the current administrative extension is through July 25, 2005, and the next key performance milestone is obtaining construction financing. He identified the key terms of the DDA before the Agency Board: 1) El Toro will purchase the building for \$650,000; 2) El Toro to operate a restaurant for at least five years in the facility; 3) construction financing to be secured by July 25, 2005; 4) El Toro to pull building permits by September 30, 2005; 5) escrow to close no later than September 30, 2005; 6) construction to commence within 30 days after pulling building permits; 7) construction to be completed 9 months from pulling building permits, but no later than September 30, 2006; and 8) the restaurant-brew pub to be in operation within 12 months from pulling building permits, but no later than December 2006.

Mr. Toy informed the Council that El Toro's lender, Heritage Bank, has indicated that they are processing their loan request for construction financing and anticipate closing the loan in July 2005. He said that the lender would like to see revisions to the DDA and that it is staff's belief that staff will be able to come up with satisfactory revisions to the DDA within two weeks to accommodate the lender's needs as well as meet the needs of the Agency. He stated that El Toro has submitted for plan check and that they would resubmit for plan check in early-mid July 2005. He recommended Agency approval of the resolutions, approving the DDA, and authorizing the Executive Director to execute the agreements.

Council/Agency Member Grzan inquired whether the City has received any of the \$650,000 purchase price for the building and delay time associated with this project.

Mr. Toy informed the Agency Board that the City has received \$60,000.00 in non refundable deposits. He indicated that the initial right to negotiate was approved in March 2004. It was originally thought that it would be 180-day exclusive that would lead to a DDA. He stated that the project is a few months behind from where the City thought it would be.

Council/Agency Member Grzan noted that the project is approximately a year late. He inquired whether the value of the building has increased during this time.

Mr. Toy stated that staff does not believe that the value of the building has increased significantly. He said that the price of the building may have gone up. However, the level of improvements necessary to convert the building to a brew pub would not lend itself to a difference in costs. He indicated that though the appraisal anticipated that there would only be \$400,000 in improvements, El Toro will be installing over \$1 million in improvements. Therefore, it was felt that the improvements would more than capture increases in appraised values. He informed the Agency Board that in the last exclusive right to negotiate, the agreement included additional non-refundable, good faith deposits for further extension requests. Penalties were also included if time frames were not met. He indicated that to date, the applicant has met the time frame. He acknowledged that the applicant requested an extension and contributed another

\$20,000 in good faith deposits. He indicated that the lender has requested more time to process the loan, necessitating another \$20,000 in non-refundable good faith deposit. These funds total the \$60,000 non-refundable funds that can be applied toward the purchase price of the building.

Mayor Pro Tempore/Vice-chairman Tate referred to the changes being requested by the lender to the DDA and inquired whether the changes would impact any of the conditions that would need to return to the Agency Board.

Mr. Toy informed the Council/Agency Board that the lender is requesting a consent agreement. The agreement would stipulate the role of the lender in the event they have to step in. He said that staff is trying to resolve some of the terms of the agreement with the lender. It is staff's belief that the remedies and the cures contained in the DDA are more than enough to satisfy the lender, but that there is some wordsmithing that the lender would like the City to take a look at.

Council/Agency Member Sellers noted that the agreement contains a clause that stipulates that the applicant must operate a restaurant for five years. He felt that this clause was a good one for the City as it achieves the Council/Agency Board's goal. He inquired what would happen should the owner not be able to operate the restaurant business for the five years as stipulated.

Mr. Toy responded that the City could consider the project to be in default and consider remedies. He informed the Council/Agency Board that El Toro would be allowed a certain period of time to cure the default and to bring the restaurant back into operation. At some point, the lender would need to know that the owner is in default. He said that it would be unlikely that the City would step in and that it would be the lender who would more than likely step in. He indicated that the lender is subject to the terms of the DDA and has a vested interest. He said that the City would be out of the agreement in terms of any monetary assistance.

Mayor/Chairman Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

Action: *On a motion by Council/Agency Member Carr and seconded by Council/Agency Member Sellers, the Council/Agency Board unanimously (5-0) **Adopted** Resolution No. MHRA-257, Approving the DDA and Authorizing the Executive Director to Execute the Agreement, Including Making Non-Material Modifications, Subject to Review and Approval by Agency Counsel; and **Adopted** Resolution No. 5932.*

City Council Action

OTHER BUSINESS:

19. RECRUITMENT OF CITY ATTORNEY

Mayor Kennedy indicated that he has heard a general consensus over the last several months from the City Council regarding the desire to proceed with the recruitment of a full time city attorney. He stated

his support of the recruitment effort for an in house city attorney, and recommended that the Council take its time going through the recruitment process to make sure that it is done correctly.

Council Member Carr stated that he has never gone through the city attorney recruitment process, and therefore does not have an opinion one way or the other. However, he noted that three council members have gone through the recruitment process for an in house city attorney. He indicated that he has been in office only with a full time city attorney, and the last few months with a contract city attorney. He said that his use of the city attorney's office is minimal, and that he was interested on how best to provide city attorney services that satisfies staff's daily needs. Therefore, he was interested in the City Manager's office and department heads' needs from a city attorney, and how to best meet these needs.

Mayor Kennedy indicated that he and several council members have been through the process of hiring a city attorney. Once the Council decided that it wanted to hire a city attorney, the Council needed to decide whether to retain the services of a facilitator or a recruiting firm/agency. He indicated that the Council elected to hire a recruitment firm. The recruitment firm met with the Council to find out its thoughts; also meeting with the City Manager. The facilitator/recruiter put together criteria that were publicly noticed through the various media. Interviews were scheduled and the Council met with the different candidates at an off site location. The Council then proceeded to make the selection that it thought was best. He felt that this process may work well again. He stated his support of Council Member Carr's suggestion that the Council seek staff's expectations and involve them in the process.

Council Member Carr did not know whether the Council wants a full time in-house city attorney or whether it wants contract services. He did not believe that the Council has answered this question. He indicated that he does not have an opinion one way or another at this time.

Council Member Sellers stated that he was satisfied with the City's current arrangement and with the legal services currently being provided. Therefore, he has a sense that there is not an urgency to go through the recruitment process. He said that the City has been in situations in the past where it was faced with either staying with the current arrangement as a de facto decision, or feeling pressured to make a decision. He did not believe that this was the case at this time. It is possible that the Council could go through the recruitment process only to determine that it was not what it was hoping for; resulting in the continuation of the current arrangement for the foreseeable future. He recommended that this be kept in mind while researching the possibility; deferring a final decision until the Council determines what is available.

Mayor Pro Tempore Tate stated that he is leaning toward having a full time attorney based on the legal work that is conducted by the City. He felt that it would be logical and workable to hire an in-house city attorney. If the Council does not understand the pros and cons of a full time city attorney, he suggested the Council go through the process again. He noted that the Council had input from the previous city manager on the process the Council undertook last time. Although the City is not in a hurry to proceed with the recruitment of a full time city attorney, the City is paying a premium for city attorney services at this time as it is being provided on an emergency and not on a full time basis. Should the Council wish to extend the process, he recommended that the Council look at how it is providing the services to see if it can be fixed for an interim period. He stated that he has no objection to going through a process

of determining whether a consensus of the Council is willing to hire a city attorney, even though he has a sense that it is the right thing to do.

Mayor Kennedy indicated that he has served on the Council with both systems where the City had a contract attorney and hired a city attorney. He stated that having a contract city attorney was an unpleasant experience. The City ended up having to take up legal action against the contract city attorney because of a failure to meet a deadline. He noted that the contract city attorney was serving other cities and was spread too thin. He stated that staff had a difficult time meeting with the contract attorney on an as-needed basis. Council contact with a contract attorney was limited and difficult to do. When the Council decided to hire its first full time city attorney, the Council reviewed standards and criteria. He indicated that Gary Baum was the City's first full time city attorney and that he did an excellent job. Prior to Mr. Baum coming on board, the City had 35 outstanding cases and that when he left the City; the City had four open cases. He agreed with Council Member Tate that a full time city attorney is the preferred way to go. However, his comments are not a negative reflection on the firm of Siegel and McClure as they are doing an excellent job as the City's current contract attorneys.

Council Member Sellers inquired as to the process should the Council wish to retain the services of a recruitment firm.

City Manager Tewes said that the process would depend on the level that the Council wishes to be involved in the selection process. He noted that last time; the Council requested staff obtain proposals from recruitment firms experienced in this area. A subcommittee of the City Council reviewed the proposals, interviewed one or more of the proposed firms and then selected a firm to assist with the recruitment process. He indicated that staff or a subcommittee of the Council can handle this process. He recommended that at the very least, the City seek proposals and indicated that he can handle this portion of the process.

Action: *On a motion by Council Member Sellers, seconded by Mayor Kennedy, the City Council **directed** staff to request proposals from qualified recruitment firms as a first step in moving toward consideration of the selection of a city attorney.*

Council Member Grzan said that there is not anything the City does today that does not involve some interpretation of law or procedures in place. He felt that it was important for City staff to be able to call up and lean upon the advice of a city attorney when problems arise. He felt that the City would have an advantage if staff could quickly and easily contact the city attorney and obtain an opinion on a question of legality as opposed to waiting a week for a return visit from a contract city attorney. He stated that he was more inclined to have a full time attorney. This is not a reflection on the legal services being provided by Dan Siegel or his firm as the City has been satisfied with the legal representation that it has had. He felt that it was important for the community to have a full time attorney on board that the City can call upon for their expertise as the city continues to grow, develop, have issues with Coyote Valley, VTA, high speed rail, etc. He recommended that the City move forward and hire a full time city attorney.

Mayor Kennedy stated that he recalled a situation when the City was on the verge of losing a \$4 million lawsuit as the City was relying on a contract attorney. He did not believe that the contract attorney managed the case properly. He stated that having a city attorney on staff gives the City someone who can manage individual/special cases and select an outside attorney to provide different areas of expertise. He stated his support of the motion.

Mayor Pro Tempore Tate stated that he supports the motion. However, he noted that the Council has not had the discussion of whether it supports proceeding with the recruitment of a full time city attorney.

Council Member Sellers stated that it was his intent, with the motion, to start the recruitment process. It was his hope that the City would undertake the process and that the Council would have a chance to interview potential full time attorneys. He stated that he was supportive of retaining the services of a full time city attorney, but would be open to other options. He said that it may very well be that the Council will go through the process knowing that it wants a full time city attorney only to find that none of the applicants meet the expectations of the Council. If this happens, the Council can consider starting over.

Council Member Carr felt that it was clear that four Council members were leaning toward one direction. He stated that he would try to answer the question as to whether the City should retain the services of a full time attorney. He did not believe that the motion should be held based on the answer to his question. He stated that he was interested in staff's thoughts on legal services as his needs from a city attorney's office are minimal. He did not believe that it was fair to assume that every contract attorney will cause the same problems identified by Mayor Kennedy.

Mayor Kennedy recommended that City Manager Tewes provide feedback on his perspective of Council Member Carr's questions.

City Manager Tewes informed the Council that the executive team had this similar discussion 3-4 months ago and that there was a division on whether or not to have a full time city attorney or contract attorney. He said that there was consensus that there was no rush to proceed with a full time city attorney at this time. As a management group, staff was supportive of the decision made by the Council in May to take its time to think through this question carefully. From his perspective, he felt that it was important to provide legal services to the city government and to support the management team with a full time city attorney. He noted that one of the policy questions outlined is whether the City should have a higher level of legal services. He stated that the City is well served by the Jorgenson law firm. However, they have limited office hours and are available via electronics and phone. When issues arise, staff cannot walk down the corridor to ask a question of the city attorney. In a contract arrangement, the contract attorney is not a full time participant in the management team of the City. He felt that it would be appropriate to look at the functions of the city attorney's office. He did not believe that the City would be able to find someone who knows every aspect of municipal law. The issue of management of legal services is important. He stated that it would be preferable to have a city attorney on board who listens to discussions of cost controls as the City proceeds through various legal services. However, it is critical to have the right person on board and who has the background on the issues important to Morgan Hill; someone with experience in running a city attorney's office and ability to work well with the

Council and entire management team. Therefore, it will be important to get the right profile established; and finding the right candidate is as important as is the decision on having a full time city attorney.

Vote: *The motion carried unanimously (5-0).*

20. BOARD AND COMMISSION INTERVIEW AND APPOINTMENT PROCESS

City Manager Tewes presented the staff report, indicating that the Council has established July 20 for interviewing to fill several vacancies. When the Council discussed whether or not to schedule this date, the Council expressed their concerns about past practices with respect to the procedures the Council used in considering and reaching consensus on the Mayor's recommended appointments. At the last Council meeting, the Mayor indicated a willingness to develop a proposal on this process and bring it back to the Council. He indicated that he, the Mayor, and City Clerk Torrez had met and discussed several different options, taking into account the issues raised by Council members. He informed the Council that the Mayor's report establishes some principles and a specific process that should guide in the selection process. He indicated that the Mayor would outline the principles and process.

Mayor Kennedy indicated that there were several areas that would be helpful to enhance the recruitment process as listed on page 469 of the agenda packet. He recommended that the Council actively seek out candidates and make sure that the Council's expectations are made clear, especially as they relate to the questionnaire. He clarified that the interview process would be very similar to what is in place at this time. The Council would conduct interviews, ask clarifying questions, and the applicants would then be excused. The Council is to discuss the characteristics that it is looking for in a candidate, including new ideas, new voice, experience, etc. Each Council member would then identify their choice of the top candidates to fill any vacancy(ies), plus one. The mayor would then consider the Council member's top candidates, returning to the Council at a following meeting with recommended appointments. If there were some issue that required additional discussions or evaluation, he said that it would be possible for the mayor to modify the recommendation. The mayor's recommendation would come back to the Council, with the Council having the opportunity to discuss recommended appointments and make changes if it was deemed necessary. He stated that the process identified would allow some additional time in the process to avoid some of the problems the Council experienced in the past.

Council Member Sellers stated that he would like the Council to have some latitude in terms of the questions asked during the interviews. He felt that it would be appropriate to include written questions prior to the interview and that Council members are allowed to ask appropriate questions at the interview. He did not believe that it was legal to ask the applicants to be excused as interviews are conducted at a public meeting. Therefore, he did not believe that this step needs to be included in the process as the applicants can stay to the conclusion of the interview process. However, the Council can make it clear to applicants that the Council will not be making a decision that evening and that the Council will be having further discussions. They are welcome to stay for the discussions, if they so choose. He felt that whoever is the mayor needs to use good judgment and make sure that they do not deviate from the process. He had a question regarding the process. He inquired whether a council member would have recourse should they feel strongly about one candidate and find the balance of the

candidates acceptable. He understands trying to get away from the hierarchy, but not allowing for this may end up with a least common denominator.

City Manager Tewes said that in the meeting with the Mayor, City Clerk, and himself, this concept was discussed. One possible approach was to urge that Council members to provide top picks for the number of vacancies plus one; leaving the option for the Council members to vote for fewer candidates if this was important to a council member. This would reflect the council member's top vote. However, by voting for only one candidate, the council member may not get his/her choice appointed at the end of the process.

Council Member Grzan noted that with the proposed process, there is still a chance of appointing all candidates to fill vacancies (e.g., 3 applicants submit applications to fill 3 vacancies). He recommended that the Council consider a minimum score an applicant has to achieve in order to be appointed. He expressed concern that a single issue candidate may come forward and promote a specific activity or may be upset about a situation. The Council may be in a position where it has to appoint this individual as there is no way for the Council to exclude a candidate like this. He felt that the Council should have a means to exclude a candidate, if necessary. He recommended that individuals who do not meet the minimum standards not be appointed and that the Council go out and recruit good candidates to serve on its commissions.

Mayor Kennedy felt that the proposed process would address Council Member Grzan's concern. Should the Council believe that there are only two good candidates to fill three vacancies, the Council could vote for only two candidates.

Mayor Pro Tempore Tate noted that this suggestion would necessitate modification to the bullet point that reads: "Each council member would identify their top candidate(s) to fill the vacancies. Council Members can vote for any number of candidates to fill vacancies up to plus one."

Council Member Sellers said that he has a lot of faith in the democratic process and felt that the recruitment/appointment process is part of the democratic process as well. He stated that he has been impressed by the quality of the candidates who come forward. He did not want to set a precedent where individuals feel they were singled out and excluded, as it may discourage individuals from applying to fill vacancies and would politicize the process more than it is today. He stated that he understood Council Member Grzan's concern, but felt that the Council should conduct interviews/appointments in a way where it will not set individuals up. He felt that the first bullet of the recommendation that suggests that the Council conduct active outreach for candidates is important, not within the small circle of acquaintances, but to go out to the community and conduct its recruitment efforts. He also felt that the Council needs to diversify its boards and commission. He stated that he prefers to take this approach rather than try to worry about individuals who may be under qualified. Even if a candidate is under qualified, he noted that the City has a 7-member commission. If there are 1-2 individuals who are not carrying their weight or have marginal view points, they will not prevent the commission from getting their work done.

Mayor Kennedy noted that one of the problems that the Council has experienced is the timing in the recruitment to fill vacancies on boards and commissions as appointments are staggered. He noted that the Council would be considering merging recruitment timing.

City Clerk Torrez noted that some cities conduct interviews for all boards and commission the same day. Should the Council consider one day to conduct its interviews, it would give the Council flexibility in appointing individuals accordingly. Should the Council not believe that a candidate is suited for a particular board or commission, they may be a better fit and can be considered for appointment to another board or commission within the organization. She would like to see the City utilize the services of individuals who step forward, as they took the initiative to be of service to the City.

Mayor Kennedy recommended that the Council move forward with the recommended process. He recommended that Council Member Grzan's concern be taken up as a separate issue in addition to actively seeking out candidates. The Council can look at changing the timing of the process so that it can receive a pool of candidates. If a candidate is unsuccessful in their offer to serve on one committee, the candidate would be available to be appointed to serve on another committee. He suggested that he, the City Manager and City Clerk Torrez look at the timing of the process, returning to the Council with this as a separate issue.

Council Member Carr stated that the Council is making the process difficult and burdensome for candidates willing to come forward. He felt the Council should make it easier for individuals to come forward and serve the City. He agreed that there are a couple of things that can be done to improve the interview/appointment process. The Council can work on the questionnaire to come up with specific questions. If it is the Mayor's intent for the Council to interview candidates one night and return at a later date, giving the mayor time for reflection, he recommended that the time for reflection be on the written questionnaire where everyone is answering the same questions. This would give the Council time to review the responses to questions before the interview and get a good feel for the candidates. He felt that the process where the Council interviews one evening, tallying recommendations and deferring appointment to a future meeting date would politicize the process. He felt that this would create the opportunity for an individual to have their friends contact the Council in support of an appointment, and would take away from the process. He did not believe that candidates take the time to respond to the questionnaire and that the questionnaire is more about their contact information. He recommended that the Council make the questionnaire an important part of the interview process. He recommended that a month or two prior to commencing the recruitment process, the Council add an agenda item where it discusses the qualities of the boards, commissions and candidates that it is looking for. The Council can have these public discussions where individuals can understand how they can fit and the qualities being sought for the different boards and commissions. He expressed concern about the delay and the other hurdles being considered for someone to be successful at being appointed on a volunteer commission.

Mayor Kennedy said that it is also possible to politicize the process under the current process. Therefore, politicizing the process can occur, no matter which alternative is followed.

Council Member Sellers acknowledged that politicizing the appointment process can exist by waiting a week to appoint. He expressed concern with the number of candidates a council member can identify

and not being able to distinguish the best, second best, etc. He stated his support of giving this process an opportunity for the next process, incorporating the change suggested by Council Member Tate of changing the word “would” to “could.” The Council would be able to evaluate whether the week long delay would improve the process. He felt that it was important to recognize that without the Council’s concurrence, the City cannot proceed with the Mayor’s appointment. He felt that it would be a rarity that any mayor would deviate from the selection process as this is his biggest concern for politicizing the interview/appointment process.

Mayor Pro Tempore Tate said that he sees the potential for the concerns raised by Council Member Carr. He felt that the one week delay may solve some of the problems that the Council has experienced and would like to give this process a try. He supported having the Council identify their preferred candidates plus one. He recommended that the second to the last bullet be modified as follows: “Council to discuss recommended appointments; and make changes, as necessary.” This amendment would not result in automatic ratification of the Mayor’s appointment recommendation.

Action: *Mayor Pro Tempore Tate made a motion, seconded by Council Member Sellers, to Approve the Mayor’s Fundamental Principles to Guide the Board and Commission Recruitment, Interview and Appointment Process, as amended.*

Council Member Carr referred to bullet point 5, “Council to discuss the characteristics it is looking for in a candidate.” He felt that this bullet point would be more valuable if done before the interviews.

Mayor Kennedy clarified that after the interview process, the Council would discuss the characteristics of each candidate and not what each Council member is looking for in a candidate. The Council would use this process in assisting Council members in making its selection.

Mayor Pro Tempore Tate stated that he would recommend that the Council discuss the characteristics it is looking for in a candidate prior to conducting interviews as it would be a valuable point.

Mayor Kennedy recommended that this be added as an additional bullet point.

Vote: *The motion carried unanimously (5-0); including an additional bullet point that would allow Council discussion of the characteristics it is looking for in a candidate prior to interviews.*

Action: *The City Council reaffirmed that the interviews for boards and commission are to take place on July 20 and that the meeting is to commence at 6:00 p.m.*

Mayor Pro Tempore Tate indicated that the Council should have its discussions of its expectations of the candidates prior to conducting interviews.

City Council Action

PUBLIC HEARINGS (Continued):

15. FOX HOLLOW-MURPHY SPRINGS ASSESSMENT DISTRICT PUBLIC HEARING AND ADOPTION OF RESOLUTIONS CONFIRMING FISCAL YEAR 2005-2006 ASSESSMENT INCREASES PURSUANT TO PROPOSITION 218 – Resolution Nos. 5915 through 5920

Mayor Kennedy excused himself from the Dias.

City Clerk Torrez reported the Assessment District balloting results, indicating that out of 16 zone districts, the following five districts did not receive a majority protest (passed): Fox Hollow/Murphy Springs; Sunnyside Stonegate; Llagas Creek; Sparkhawk; and Stonecreek.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Kennedy absent, **Adopted** resolutions declaring the results of the assessment ballot tabulation, increasing the assessments for the Fox Hollow/Murphy Springs Landscaping Assessment District for the following sub areas: Fox Hollow/Murphy Springs (Resolution No. 5915), Sunnyside Stonegate (Resolution No. 5916), Llagas Creek (Resolution No. 5917), Sparkhawk (Resolution No. 5918) and Stonecreek (Resolution No. 5919).*

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote, with Mayor Kennedy absent, **Adopted** Resolution No. 5920, ordering the levy of assessments and approving amended engineer's report, as amended per the ballot results this evening.*

City Manager Tewes noted that by inference, some of the sub areas received majority protests and that the records should reflect a majority protest.

City Clerk Torrez reported the following assessment sub areas receiving majority protest: Jackson Meadows No. 7; Conte Gardens; Mill Creek; Jackson Meadows 6a and 6B; Diana Estates; Hamilton Square; Oak Creek; Rosehaven; Parson's Corner; La Grande; and Saddlewood.

Action: *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote, with Mayor Kennedy absent, **Directed** staff to return with a resolution for sub areas that received majority protest.*

Deputy Director of Public Works Struve informed the Council that when he returns to the Council, he would identify impacts to the zones where a majority protests were received.

Mayor Kennedy returned to the Dais.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

Council Member Sellers requested that staff agendaize the discussion of City participation in the Silicon Valley High Speed Rail Coalition; following discussion by the Council's Regional Transportation Committee.

Council Member Carr indicated that he would like to make sure that an at-grade crossing takes place and that it be a part of any support the Council gives. Also, to be identified is the increase in train traffic through Morgan Hill with the high speed rail.

ADJOURNMENT

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 8:57 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK/AGENCY SECRETARY